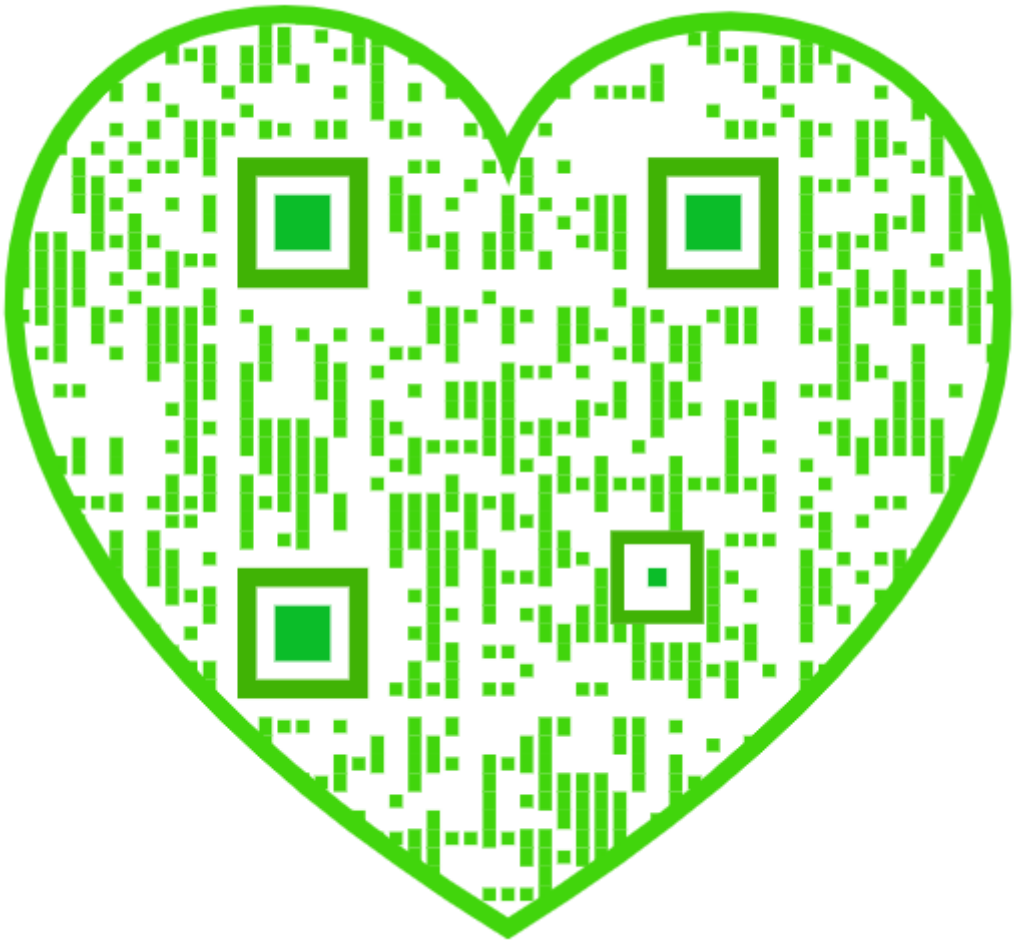

THE

COAL MINES REGULATION ACT, 1887,

AND

THE TRUCK ACTS, 1831 AND 1887.

Ballantyne Press
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THE

COAL MINES REGULATION ACT, 1887.

BEING

THE ACT REGULATING MINES OF COAL, STRATIFIED IRONSTONE, SHALE, AND FIRECLAY.

WITH A DIGEST AND A REPRINT OF THE STATUTE, AND EXPLANATORY NOTES; ALSO AN APPENDIX OF THE OFFICIAL AND SUGGESTED FORMS; LIST OF INSPECTORS, EXAMINATION BOARDS, AND SECRETARIES, AND INSTRUCTIONS TO CANDIDATES FOR FIRST AND SECOND CLASS CERTIFICATES; EXTRACTS FROM LEGAL DECISIONS, ETC. ETC.

ALSO

A Digest of the Law relating to Truck,

WITH A REPRINT OF THE EXISTING STATUTES, AND NOTES OF CASES.

WITH A GENERAL INDEX.

BY

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AUTHOR OF TREATISES ON THE ACTS FOR THE REGULATION AND INSPECTION OF MINES, 1860, AND ON THE COAL MINES REGULATION ACT, 1872.

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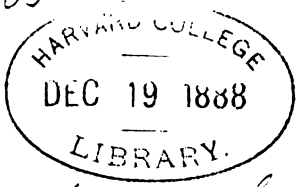

Meinert Lund.

To

A. L. P.

AUTHOR'S NOTE.

THIS Book, undertaken at the wish of friends who know my deep interest in the subject, has been delayed in the press longer than I had anticipated, owing to my anxiety to make it as useful and complete as possible by including the latest official documents and forms and other information, and a reprint of a judgment in an important appeal case pending on the passing of the Act, and decided on the 1st of the present month.

My best thanks are due to the Council of Law Reporting, and to the proprietors of the *Law Journal* Reports, the *Law Times* Reports, and the *Scottish Law Reporter*, for the kind permission accorded me of publishing extracts from the Reports named.

March 1888.

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THE

COAL MINES REGULATION ACT, 1887

(50 *AND* 51 *VICT. CAP.* 58).

INTRODUCTION AND DIGEST OF THE ACT.

THE law relating to this subject having occupied the attention of the Legislature in two recent Sessions, and having been modified by what was known as Lord Cross's Act (the Coal Mines Act, 1886), has at last received a definite solution by the passing of "The Coal Mines Regulation Act, "1887," which repeals all previous enactments for the regulation of coal mines, so that we must look to it, as from the 1st of January 1888, for the law upon the subject.

49 & 50 Vict. c. 40.

50 & 51 Vict. c. 58.

Repeal of former Acts.

It is with this Act that we propose to deal in the present volume.

Coal Mines Regulation Act, 1887.

It applies to the whole of Great Britain and Ireland. It embraces within its authority mines of coal, mines of stratified ironstone, mines of shale, and mines of fire-clay. Should there be a doubt whether any particular mine is comprehended, the Secretary of State has power to decide the question otherwise than in legal proceedings.

Extent of Act.

Inspection districts.

For the purposes of Government inspection, these mines are divided into the following districts :—

1. Manchester district, comprising North and East Lancashire and Ireland.

2. North Staffordshire district, comprising North Staffordshire, Cheshire, and Shropshire.

3. Midland district, comprising the counties of Derby, Leicester, Nottingham, and Warwick.

4. Scotland—East district, comprising the counties of Clackmannan, Edinburgh, Fife, Haddington, Kinross, Linlithgow, Perth, Sutherland, upper and middle wards of Lanark, and part of Stirling.

5. Yorkshire and Lincolnshire district, comprising Yorkshire, exclusive of North Riding, and Lincolnshire.

6. Newcastle district, comprising the counties of Cumberland, Northumberland, and part of Durham.

7. Durham district, comprising the county of Westmoreland, part of Durham, and North Riding of Yorkshire.

8. Liverpool district, comprising the counties of Anglesey, Denbigh, Flint, and West Lancashire.

9. South Staffordshire district, comprising South Staffordshire and Worcestershire.

10. Scotland—West district, comprising the counties of Argyle, Ayr, Dumfries, Dumbarton, Renfrew, and portions of Lanark and Stirling.

11. South-western district, comprising

the counties of Devon, Dorset, Gloucester, Monmouth, Somerset, and portions of Brecon and Glamorgan. Inspection districts.

12. South Wales district, comprising the counties of Carmarthen, Pembroke, and portions of Brecon and Glamorgan.

A list of the inspectors for the above-named districts will be found on p. 232, and, in passing, it will be observed in this list that each of these inspectors has a district or districts assigned to him under the Metalliferous Mines Acts, and that, in addition, there are two other inspectors under the last-named Acts for the districts of North Wales and the Isle of Man, and Cornwall, Devon, &c. Metalliferous Mines Acts.

So large a proportion of the enterprise of the kingdom which is engaged in mining is connected with the mines we are now treating of, that the law with regard to their regulation is of widespread and increasing importance.

Large responsibilities are thrown upon the various persons employed, as well as, more especially, upon owners, agents, and managers, and also upon under-managers, who are mentioned for the first time in the present Act.

With respect to managers, as well as to the owner and agent, a *primâ facie* liability for dereliction of duty by any person whomsoever is thrown upon them, and the burden of proving innocence on their part takes the place of the necessity of the proof of guilt required at the hands of the prosecution. This principle runs through the Act. As an example, we may Owner, agent, and manager.

Owner, agent, and manager.

quote the enactment at the end of the General Rules, which runs as follows:—

"Every person who contravenes or does not "comply with any of the general rules in this "Act, shall be guilty of an offence against this "Act; and in the event of any contravention of "or non-compliance with any of the said general "rules in the case of any mine to which this Act "applies, by any person whomsoever, the owner "agent and manager shall each be guilty of an "offence against this Act, unless he proves that "he had taken all reasonable means, by pub-"lishing and to the best of his power enforcing "the said rules as regulations for the working of "the mine, to prevent such contravention or "non-compliance" (section 50).

Words of similar import, varied only so far as to adapt them to the particular circumstances, are found in most of the penal clauses bearing upon the actual working of mines throughout the statute. By some sections, the owner, agent, and manager is each held guilty of an offence, to the extent thus indicated, if any person whomsoever permits any other person to contravene or fail to comply with certain provisions of the Act (see sections 9 and 12).

Until the passing of the present Act, summary proceedings against an owner, agent, or manager could only be taken by an inspector, or with the consent, in writing, of a Secretary of State; but this protection now only extends to offences not committed personally by the owner, agent, manager, or *under-manager*.

In view of the position occupied in the statute by the owner and agent, it is useful that we

should ascertain, so far as may be, the precise meaning of the terms.

"Owner."

The interpretation clause defines the term "owner," when used in relation to any mine, to mean any person or body corporate who is the immediate proprietor, or lessee, or occupier of any mine, or of any part of a mine. It does not, however, include a person or body corporate who merely receives a royalty, rent, or fine from a mine, or who is merely the proprietor of a mine subject to any lease, grant, or licence for its working, or who is merely the owner of the soil and not interested in the minerals of the mine. But any contractor for the working of any mine, or any part of a mine, is to be subject to the Act as if he were an owner. In this case, however, the owner is not to be exempted from participation in the liability.

"Agent."

The term "agent," when used in relation to any mine, means any person appointed as the representative of the owner in respect of any mine, or of any part thereof, and, as such, superior to a manager appointed in pursuance of the Act.

"Manager" and "Under-manager."

The terms "manager" and "under-manager" are not defined by the Act in the interpretation clause, but their qualifications are fully set out in the Act, and are referred to in a subsequent part of this Digest.

Mine.

We may add, the statutory interpretation of the word "mine" includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven, and all the shafts, levels, planes, works, tramways, and sidings, both below ground and above

ground, in and adjacent to and belonging to the mine.

Division of a mine into parts.

There is a provision, afterwards more fully alluded to, similar to that contained in the former Act, that two or more parts of a mine may be worked separately, subject to the approval of the Secretary of State.

Coal Mines Act, 1886.

The Act incorporates, in effect, the provisions of "The Coal Mines Act, 1886" (which it repeals), as to check-weighers, and as to the holding of a court of separate investigation, by order of a Secretary of State, as to any explosion or accident, and of its causes and circumstances.

These comparatively novel provisions will be pointed out in the order in which they arise in the Act.

We now proceed to consider the various provisions of the statute in the sequence followed by the Act itself. It is divided into three parts, with four schedules annexed. The first part regulates the employment of boys, girls, and women, the mode of ascertaining and paying wages, the appointment and removal of check-weighers, the arrangements as to shafts and communications, the division of a mine into parts, the enactments as to certificated managers, returns, plans, and notices to be given by owners, agents, or managers, with the steps to be taken on the opening, abandonment, or recommencement of a mine or seam, the law relating to inspectors and inspection, the formal investigation already referred to as to accidents, and provisions as to arbitration and coroners' inquests.

Divisions of the Act.

The second part is devoted to (1) the general

rules to be observed in every mine to which the Act applies, (2) the establishment of special rules for each mine, and (3) the publication of the Abstract and special rules; whilst the third part of the Act deals with the penalties for offences, and the mode of their enforcement and application. It also comprises miscellaneous provisions, including the interpretation of terms, and transitory provisions and repeal. The first schedule relates to the proceedings of boards of examinations, the second to the maximum fees to be paid in respect of certificates for managers and under-managers, the third contains the form for the annual return, in two parts, and the fourth a list of the Acts repealed. Divisions of the Act.

After declaring that the Act may be cited as "The Coal Mines Regulation Act, 1887," the preliminary clauses provide that the date for its commencement is to be the 1st of January 1888.

The special rules under it are to be framed and transmitted to the inspector of the district within three months after the commencement of the Act.

PART I.

EMPLOYMENT OF BOYS, GIRLS, AND WOMEN.

Boys, girls, and women.

No boy under the age of twelve years, and no girl or woman of any age, is to be employed in, or allowed to be for the purposes of employment in, any mine below ground.

Boys below ground.

A boy of or above the age of twelve years is not to be employed in, or allowed to be for the purpose of employment in any mine below ground, for more than fifty-four hours in any one week, nor more than ten hours in any one day, nor otherwise than in accordance with the following regulations :—

There must be allowed an interval of not less than eight hours between the period of employment on Friday and the period of employment on the following Saturday, and in other cases of not less than twelve hours between each period of employment.

These periods begin at the time of leaving the surface, and end at the time of returning to the surface.

A week begins at midnight on Saturday night, and ends at midnight on the succeeding Saturday night.

Employment of boys, girls, and women above ground.

The following provisions are to have effect with respect to boys, girls, and women above ground in connection with any mine :—

1. No boy or girl under the age of twelve years is to be so employed.

Boys, girls, and women.

2. No boy or girl under the age of thirteen years is to be so employed

(*a*) for more than six days in any one week; or,

(*b*) if employed for more than three days in any one week, for more than six hours in any one day; or

(*c*) in any other case for more than ten hours in any one day.

No boy or girl of or above the age of thirteen, and no woman, is to be so employed for more than fifty-four hours in any one week,* or more than ten hours a day.

No boy, girl, or woman is to be so employed between nine at night and five on the following morning, nor on Sunday, nor after two o'clock on Saturday afternoon.

This latter provision is not to apply to any mine in Ireland so long as it is exempted by order of a Secretary of State.

Mine owners in Ireland who wish to have this exemption should lose no time in applying for it to the Secretary of State.

The provisions as to the interval between the termination and commencement of employment, and as to the length of a week, as before set out, are repeated.

No boy, girl, or woman is to be employed continuously for more than five hours without

* The Secretary of State for the Home Department stated in the House of Commons on the 2nd of March, in answer to a question by Mr. Curzon, M.P., that the term of fifty-four hours per week did not, in his opinion, include the intervals allowed for meals.

Boys, girls, and women.

at least half an hour for a meal; or for more than eight hours a day without an interval or intervals for meals amounting to not less than one hour and a half.

There is a new provision that no boy, girl, or woman is to be employed in moving railway waggons.

Section 74 provides that the provisions of section 38 of the Public Health Act, 1875 (which enforces the providing of privy accommodation), are to apply to the portions of a mine above ground where girls and women are employed, and this is fully set out in the notes on this section.

Under the Act of 1872, boys might, by consent of a Secretary of State, in the case of thin mines, be employed below ground between the ages of ten and twelve. The prohibition as to boys below ground is now extended to the age of twelve, but it is provided that boys under that age, lawfully employed below ground in connection with any mine on the 1st of January 1888, may continue to be so employed, and a similar saving is enacted with respect to boys or girls lawfully employed above ground at the date named, who may continue to be so employed notwithstanding the prohibition.

With regard to the hours of employment, the Home Office have, in a recent communication addressed to the Mining Association of Great Britain, stated that it would be convenient, where practicable, that a notice should be posted at each mine of the hours of employment; and, further, that the special rules should provide for such notice; but that it is not the intention

of the Secretary of State to press for this where it is objected to. Boys, girls, and women.

It will be observed that the provisions as to boys below ground apply to each individual boy. A practical difficulty will arise where it is intended to employ a set of boys to the full limit of time allowed. For example : suppose it were desired to work a group or shift of boys for the full ten hours, the time spent in going down the pit and thence to the working place, and in returning to the pit bottom and ascending, is all part of the statutory period ; therefore it would be necessary to record the time of each boy's quitting the surface, with the view to insure his being out of the pit again by the end of the ten hours. It may be found necessary, as a practical measure of precaution and convenience, to see that the whole shift are not below more than ten hours, letting the time run from the period the first boy leaves the surface and end when the last boy returns there.

With respect to the employment of boys and girls on the surface, the restrictions as to those under thirteen are onerous. It will be a matter of consideration for a mine owner whether it is the more desirable to employ only boys and girls of thirteen or upwards, as those persons under that age are subject to the regulations previously mentioned.

A register is to be kept, in the office at the mine, of boys (males under sixteen) employed below ground, boys employed above ground (males under sixteen), girls employed above ground (females under sixteen), and of women employed above ground (females of the age of Register.

Register.

sixteen and upwards). See official Forms in the Appendix hereto, pp. 227–230.

The register must give the name, age, residence, and date of first employment of all boys employed in the mine below ground, and of all boys, girls, and women employed above ground in connection with the mine. It will be observed in the official Forms, as far as those relating to boys and girls are concerned, that there is no column for the age, but in lieu of that there is a column for the date of birth, from which it is presumed the age will be calculated. As this is a novelty, and a variation from the old form of register, special attention is called to it. In the form of register for women, there is no corresponding column, notwithstanding the words of section 8 of the Act providing that the age shall be recorded.* These registers must, on request, be produced to the inspector, "and "to any officer of a School Board, or School At- "tendance Committee, in the district in which "the mine is situate," at the mine, at all reasonable times, and such inspector or officer is to be allowed to inspect and copy the same.

The immediate employer of every boy, other than the owner, agent, or manager of the mine, before he causes the boy to be below ground in any mine, is to report to the manager, or to some person appointed by that manager, that he is about to employ the boy in the mine.

If it be not intended that the manager shall receive such reports (which may be verbal), he

* Since the above was written an alternative form of register has been issued by the Home Office, which is given in the Appendix, p. 231.

should carry out this provision by appointing some other person to receive them. That may be conveniently done by publishing a notice such as that contained in the Appendix, p. 255.

Penalty.

Any person contravening or failing to comply with, or permitting any person to contravene or fail to comply with, any provisions of the Act with respect to the employment of boys, girls, or women, or to the register, or to report the intended employment of boys, is declared to be guilty of an offence against the Act; and in the event of any such contravention or non-compliance, by any person whomsoever, the owner, agent, and manager of the mine is each to be guilty of an offence against the Act, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the provisions of the Act, to prevent such contravention or non-compliance.

Payment of school fees out of wages.

The next provision relates to the payment, on request in writing by the principal teacher of a public elementary school, of the school fees, out of the wages of any boy or girl (under sixteen) employed in or in connection with a mine, by the person who pays the wages, as long as he employs the boy or girl, for every week that the boy or girl attends the school, not exceeding two pence per week, and not exceeding one twelfth part of the wages of the boy or girl. The sum so paid may be deducted from the wages payable for the services of the boy or girl, and there is a penalty of ten shillings for refusing to pay on demand.

It may be useful to point out that the present Act does not interfere with the Elementary

Education Acts, 1876 and 1880, which have been passed since the former Mines Act, and in consequence of which the provisions contained in that Act as to the attendance of boys at school, obtaining certificates, &c., have been omitted from the present Act. Those provisions of the Elementary Education Acts which have to be observed in connection with boys and girls under thirteen will be found summarized in the Appendix, p. 248.

WAGES.

Prohibition against payment in public-houses.

Wages are not to be paid at or within any public-house—meaning every sort of house of entertainment, or any place belonging or contiguous thereto, or occupied therewith.

It will behove every owner, agent, and manager to see that this provision is strictly complied with by every person paying wages, since, in the event of any contravention or non-compliance by any person whomsoever, the *primâ facie* liability, already observed upon, attaches to each of them.

Payment by weight.

Where the amount of wages paid to any of the persons employed in a mine depends on the amount of mineral gotten by them, those persons are to be paid according to the actual weight gotten by them of the mineral contracted to be gotten, and the mineral gotten by them is to be truly weighed "at a place as near "to the pit mouth as is reasonably practicable;" but the owner, agent, or manager of the mine may agree with the persons employed in the mine for deductions being made in respect of stones or "substances" (the word "materials"

Deductions.

was used in the Act of 1872) other than the mineral contracted to be gotten sent out of the mine with the mineral contracted to be gotten, or in respect of any tubs, baskets, or hutches being improperly filled in those cases where they are filled by the getter of the mineral or his drawer, or by the person immediately employed by him, such deductions being determined in such special mode as may be agreed upon between the owner, agent, or manager of the mine on the one hand, and the persons employed in the mine on the other, or by some person appointed in that behalf by the owner, agent, or manager, or (if any check-weigher is stationed for the purpose) by such person and such check-weigher, or, in case of difference, by a third person to be mutually agreed on by the owner, agent, or manager of the mine on the one hand, and the persons employed in the mine on the other, or, in default of agreement, appointed by a chairman of a court of quarter sessions within the jurisdiction of which any shaft of the mine is situate. Deductions.

Under this section a contract may be made as to what the mineral is which is to be gotten and paid for by weight, and also as to what deductions are to be made in respect of stones or substances other than the mineral contracted to be gotten which may be sent out of the mine with such mineral; and an agreement may also be made in respect of any tubs, baskets, or hutches being improperly filled, as already mentioned, and the agreement may stipulate the special mode in which the deductions are to be determined.

Exemption.

In the case of any mine or class of mines where not more than thirty persons are employed under ground, and where it is proved, to the satisfaction of a Secretary of State, to be expedient that the persons employed therein should, upon the joint representation of the owner or owners, and of the persons employed, be paid by any method other than that provided for by the Act, the Secretary of State may allow the same conditionally or otherwise.

Appointment and removal of check-weigher.

The persons employed in a mine, and paid according to the weight of the mineral gotten by them, may, at their own cost, station a check-weigher at *each* place appointed for the weighing of the mineral, and at *each* place appointed for determining the deductions, in order that he may, on behalf of the persons by whom he is so stationed, take a correct account of the weight of the mineral, or determine correctly the deductions, as the case may be. The check-weigher is to have every facility afforded to him for enabling him to fulfil the duties for which he is stationed, including facilities for examining and testing the weighing machine, and checking the tareing of tubs and trams, where necessary; and if at any mine proper facilities are not afforded to the check-weigher, the owner, agent, and manager of the mine is each to be guilty of an offence against the Act, unless he proves that he had taken all reasonable means to enforce, to the best of his power, the requirements of the section.

Bourne v. Netherseal Colliery Company.

In view of the recent decision of the Divisional Court in the case of Bourne and others *v.* The Netherseal Colliery Company, Limited,

a reprint of the judgment in which case is contained in the Appendix, p. 287, deductions under the old law, which contemplated the appointment of only one check-weigher, could not be made except in those cases where the check-weigher checked both the weighing and the deductions. Netherseal case.

Now, as already stated, a check-weigher may be stationed, by the persons employed, at *each* place appointed for the weighing of the mineral, and another check-weigher at each place appointed for determining the deductions.

This case has since been before the Court of Appeal, when the appeal was dismissed by the Master of the Rolls and Lord Justice Lopes, Lord Justice Fry dissenting. It appears from the judgment, which is also printed in the Appendix, p. 291, that the appeal was dismissed on the ground that slack was part of the mineral contracted to be gotten by the miners, but for which, or a portion of which, they were not paid, by the operation of a machine called a "Billy "Fairplay."

The judgment also upheld the decision of the Divisional Court, on the grounds stated by that Court. It is of some length, and deserves careful perusal.

Under the present Act, as in Lord Cross's Act, any person may be appointed a check-weigher. He need not be, as under the Act of 1872, one of the persons employed either in the mine at which he is stationed or in another mine belonging to the owner of that mine.

A check-weigher is not to be authorized in any way to impede or interrupt the working of

Check-weigher.

the mine, or to interfere with the weighing, or with any of the workmen, or with the management of the mine, but is to be authorized only to take such account or determine such deductions, and the absence of a check-weigher from the place at which he is stationed is not to be a reason for interrupting or delaying the weighing or the determination of deductions at such place respectively, but the same is to be done or made by the person appointed in that behalf by the owner, agent, or manager, unless the absent check-weigher had reasonable ground to suppose that the weighing or the determination of the deductions, as the case may be, would not be proceeded with. Nothing is to prevent a check-weigher giving to any workman an account of the mineral gotten by him, or information with respect to the weighing, or the weighing machine, or the tareing of the tubs or trams, or with respect to the deductions, or any other matter within the scope of his duties as check-weigher, so that the working of the mine is not interrupted or impeded.

Removal of check-weigher.

A check-weigher may be removed on the ground that he has impeded or interrupted the working of the mine, or interfered with the weighing, or with any of the workmen, or with the management of the mine, or has at the mine, to the detriment of the owner, agent, or manager, done anything beyond taking such account, determining such deductions, or giving such information as before mentioned.

On complaint of an owner, agent, or manager of a mine to a court of summary jurisdiction, the Court, if of opinion that the owner, agent, or manager shews sufficient *primâ facie* ground for

the removal of the check-weigher, is to call on the check-weigher to shew cause against his removal. The Court is to hear the parties, and if it thinks that at the hearing sufficient ground is shewn to justify the removal of the check-weigher, the Court is to make a summary order for his removal, and he is thereupon to be removed, but without prejudice to the stationing of another check-weigher in his place. Removal of check-weigher.

The Court has full power as to costs.

If, under any order of exemption, the persons employed in a mine are paid by measure or gauge, the provisions of the Act are to apply in like manner as if the term "weighing" included measuring and gauging. S. 12, sub-s. 3.

This, it will be remembered, applies only to the case of any mine or class of mines employing not more than thirty persons under ground.

An entirely new provision enacts that, if the person appointed by the owner, agent, or manager to weigh the mineral impedes or interrupts the check-weigher in the proper discharge of his duties, or improperly interferes with or alters the weighing machine or the tare, in order to prevent a correct account being taken of the weighing and tareing, he is to be guilty of an offence against the Act. Owner's weigher not to impede check-weigher.

Where a check-weigher has been appointed by the majority, ascertained by ballot, of the persons employed in the mine who are paid according to the weight of the mineral gotten by them, and has acted as such, he may recover from any person for the time being employed at such mine, and so paid, his proportion of the check-weigher's wages or recompense, notwith- Remuneration of check-weigher and mode of appointment.

Check-weigher.

standing that any of the persons by whom the check-weigher was appointed may have left the mine, or others have entered the same, since the check-weigher's appointment.

It will be observed that the previous section (13), referring to the appointment of the check-weigher, does not say that he is to be appointed by ballot; it only says: "The persons who are "employed in a mine, and are paid according to "the weight of the mineral gotten by them, may, "at their own cost, station" a check-weigher, so that the remuneration of a check-weigher can only be recovered in those cases where it can be proved that he has been appointed or re-appointed by the majority, ascertained by ballot; and we think that the only check-weighers to be recognized are those who are properly appointed, after the 1st of January 1888, under the present Act, whether by ballot or otherwise. The owner or manager of any mine where the majority, ascertained by ballot, of the persons employed, and paid according to weight, so agree, may retain the agreed contributions of the persons employed, and paid as before mentioned, for the check-weigher, notwithstanding the provisions of the Acts relating to truck, and to pay and account for the same to the check-weigher.

Before the owner or manager of the mine, if he elects to carry out this provision, can do so, he must satisfy himself that the check-weigher has been appointed by the majority, ascertained by ballot, of the persons paid by weight, and he must also be satisfied what was the agreed contribution of the persons employed.

The Acts relating to truck are treated of hereafter. The last Act dealing with the sub-

ject (the Truck Amendment Act, 1887) received the royal assent on the same day as the Act we are now considering—viz., the 16th of September 1887—and we presume that it is included in the expression "provisions of the Acts relating to "truck," this amending Act and the Act of 1831 (1 & 2 Will. IV. c. 37) being now the only Acts relating to truck.

50 & 51 Vict. c. 46.

1 & 2 Will. IV. c. 37.

The Weights and Measures Act, 1878, is to apply to all weights, balances, scales, steelyards, and weighing machines (which we afterwards include under the term "weights") used at any mine for determining the wages payable to any person employed according to the weight of mineral gotten by him, in like manner as it applies to "weights" used for trade, and those which are used, or in the possession of any person for use, at any mine within his district are to be inspected and examined by the inspector of weights and measures, "once, at least, in "every six months," in manner directed by the Weights and Measures Act.

Application of Weights and Measures Act, 1878.

And he may make such inspection and examination at any other time in any case where he has reasonable cause to believe that there is in use at any mine any false or unjust "weights." He is also to inspect and examine the measures and gauges in use at the mine within his district, but measures or gauges ordinarily used at the mine are not to be interfered with.

An inspector of weights and measures (without any authorization from a justice of the peace) is to have all the powers given by section 48 of the Weights and Measures Act, 1878, but he is not, in fulfilling the duties required of

Weights and Measures Act.

him, to impede or obstruct the working of the mine. The Weights and Measures Act, 1878 (section 48), provides that any inspector under that Act, authorized in writing under the hand of a justice of the peace (which authorization, as before stated, is not required under the Mines Act), may at all reasonable times inspect all "weights" within his jurisdiction used, or in the possession of any person or on any premises for use, for trade, and may compare every such weight and measure with some local standard, and may seize and detain any "weights" liable to be forfeited in pursuance of the Act, and may for the purpose of such inspection enter any place, whether a building or in the open air, whether open or inclosed. Any person neglecting or refusing to produce for such inspection all "weights" in his possession or on his premises, or refusing to permit, or obstructing the examination, is liable to a fine not exceeding five, or in the case of a second offence ten, pounds.

SINGLE SHAFTS.

Prohibition of single shafts.

Every mine worked under the present Act must have, in communication with every seam, at least two shafts or outlets by which separate means of ingress and egress are available to the persons employed in every such seam.

The shafts may either belong to the same or more than one mine, so that the communication is complete and sufficient.

Single shafts.

Those mines provided with two shafts sunk before the 1st of January 1865, but at that time separated by a distance of less than 10 feet, or

commenced to be sunk before the 1st of January 1888, but separated by a distance of more than 10 feet and less than 15 yards, may continue to be worked, but future mines must have two shafts or outlets which must not at any point be nearer to one another than 15 yards. Single shafts.

There must be a communication of not less than 4 feet wide and 3 feet high between such two shafts or outlets made previously to the 1st of January 1888, but in future such communication must not be less than 4 feet wide and 4 feet high.

Proper apparatus for raising and lowering persons at each such shaft or outlet is to be kept on the works belonging to the mine, and, if not in actual use at the shafts or outlets, is to be kept constantly available for use.

The necessity for a strict observance of these provisions as to double shafts was felt to be of such importance on the passing of the former Act that, in addition to all other pains and penalties, it was provided, and the provision is contained in the present Act, that an injunction may be obtained to prohibit the working of any mine contrary to the enactment.

Ten days' notice of the intended application for an injunction must be given.

The statute, like the former one, authorizes the making of the necessary additional shaft or outlet in all cases where, by reason of any existing agreement, it could not have been made without this provision.

There are some exceptions to the requirements as to double shafts, as in the case of opening a new mine or making a communication between two shafts, when not more than twenty persons Shafts—Exceptions.

Shafts—Exceptions.

are employed below ground in the whole of the seams at the same time. In the case of any proved mine, the Secretary of State may also grant an exemption on the ground that the quantity of mineral proved is not sufficient to repay the outlay of a second shaft or outlet in any case where such communication existed and has become unavailable, or the exemption may be granted when the workings in any seam of the mine have reached the boundary, and it is expedient to work away the pillars.

Where this exemption is allowed, the number of persons employed in all the seams in connection with a single shaft or outlet must not exceed twenty. The provisions of the Act with respect to shafts or outlets are not to apply to any mine while a shaft is being sunk or an outlet being made.

The Secretary of State may also exempt, in writing, on such conditions as he may think expedient, any mine where one of the shafts or outlets has become unavailable by reason of some accident; and may also exempt any mine or class of mines by reason of the thinness of the seams, or other exigencies affecting that mine or class of mines, from the provisions of the Act as to the dimensions of the communication between the two shafts or outlets, for such period as he may fix, and so long as the conditions (if any) annexed to the exemption are observed.

DIVISION OF A MINE INTO PARTS.

Division of a mine into parts.

Where two or more parts of a mine are worked separately, the owner, agent, or manager may divide each portion into a separate mine for the

purposes of the Act, by giving a notice, in writing, to that effect to the inspector of the district; and if the Secretary of State object to such division, he may do so by a notice to the owner, agent, or manager, who, if he declines to acquiesce in the objection, may have an arbitration thereupon. The object of this provision appears to be to facilitate the arrangement for a consolidated management of the mine.

CERTIFICATED MANAGERS.

Appointment of manager of mine.

Every mine (except the small mines afterwards mentioned) is to be under a first-class certificated manager, who is to be responsible for the control, management, and direction of the mine. He is to be nominated by the owner or agent, who must send written notice of the manager's name and address to the inspector of the district. The owner or agent may nominate himself to be manager. If any mine is worked after the 1st of January 1888 for more than fourteen days without such a manager, the owner and agent of the mine is each to be liable to a fine not exceeding fifty pounds, and to a further fine not exceeding ten pounds a day for every day during which the mine is so worked.

There is, however, a proviso, as in the former Act, intended to protect an owner who takes reasonable means to comply with the provision.

Temporary manager.

The Act provides that if, for any reasonable cause, there is for the time being no manager of a mine qualified as required, the owner or agent of the mine may appoint any competent person, not holding a certificate under the Act, to be manager for a period not exceeding two months, or such longer period as may elapse before such

person has an opportunity, "in the district "wherein the mine is situate," of obtaining by examination a certificate of competency; but the owner or agent must send to the inspector of the district a written notice of the manager's name and address, with the reason for his appointment.

As already mentioned, the Act does not define the term "manager" in the interpretation of terms, but it for the first time provides for a certificated under-manager, who must hold either a first or second class certificate as described in the Act.

The language of the old Act, which required a mine to be under the control and daily supervision of a manager, was considered in the case of Plant *v.* The Cheadle Valley Coal and Iron Company, heard in the Queen's Bench Division on the 29th of November 1882, in which Lord Chief Justice Coleridge said, in his judgment, that—

Plant *v.* Cheadle Valley Company.

> "it was clear, from the true construction "of the Act, that it was the duty of the "manager to be in the mine day by day to "supervise it, and when he undertook this "most onerous duty—for onerous in truth "it was—if he desired at any time to be "away, then the Act required that he "should provide some other certificated "colliery manager to fill his place during "the period of his absence."

Manager.

The present Act directs that, in every mine required to be under the control of a certificated manager, *daily personal supervision* shall be exercised either by the manager, or by an under-manager, nominated, in writing, by the owner or agent of the mine. He must hold either a first or second class certificate, and, in the absence of

the manager, the under-manager is to have the same responsibility, and be subject to the same liabilities, as the manager, but the nomination of an under-manager is not to affect the personal responsibility of the manager. Manager.

A contractor for mineral, or person employed by such a contractor, is not eligible for the post either of manager or of under-manager.

There were two kinds of certificates under the repealed Act of 1872 which are equivalent to first-class certificates under the present Act, and which are those either of competency after passing an examination, or of service.

Under the present Act there are also two descriptions of certificates of competency—viz., (1) a first-class certificate, that is, a certificate of fitness to be manager, which is obtained by passing an examination as hereinafter mentioned, and (2) a second-class certificate, of fitness to be under-manager. Second-class certificates are of two sorts, obtainable either by passing the examination hereinafter described, or by satisfying a Secretary of State that the applicant either before the passing of the Act (16th of September 1887) was exercising, and that he has since that date exercised, or that he has at any time within five years before the passing of the Act, for a period of not less than twelve months, exercised functions "substantially corresponding to those "of an under-manager in a mine." No person is to be entitled to a certificate under the Act unless he has had practical experience in a mine for at least five years.

Forms of application for a certificate of service as under-manager can be obtained from the Home Office, on application, in the form given

Manager.

in the Appendix, which will be found on p. 235. The form of application will shew what information must be given to the Secretary of State before the application is acceded to (p. 236).

Examination Board districts.

For the purpose of granting certificates of competency, the country is at present divided into areas corresponding with the districts of the inspectors already indicated, and the several examinations are held in the following months:—

Newcastle district	Jan.	Durham district	July.
South Staffordshire district		South-western district	
South Wales district		Midland district	Oct.
East Scotland district	May.	West Scotland district	Nov.
North Staffordshire district	June.	Manchester district, which includes Ireland	Dec.
Yorkshire and Lincolnshire district			
Liverpool district			

Notice of the intended examinations is advertised as a rule in three newspapers circulating in each district. In the Liverpool district, which includes North Wales, the notice is advertised in four newspapers. These are nominated for the approval of the Secretary of State by the various Examination Boards.

A candidate may appear for examination in any district.

Constitution of Examination Boards.

The Secretary of State has determined that the Examination Boards are to continue to be constituted as heretofore for each district in charge of an inspector of mines, and official notice is given of the persons who are appointed to act as secretaries of the several Boards of Examination for the granting of managers' and under-managers' certificates of competency, and applicants for first or second class certificates of competency are directed to apply for all necessary

information to the secretary of the Board for the district in which they desire to be examined. (See copy official notice, and list of names and addresses of secretaries, p. 232.)

Examiners.

For the purpose of granting these certificates, examiners are to be appointed by the Board for each district. Each Board is to consist of ten persons—viz., three owners of mines; three persons employed, "or who have been employed," in or about any mine; three mining engineers, agents or managers of mines, or coal-viewers, to be severally selected from the districts defined; and one inspector.

The members of the Board are to be appointed and may be removed by a Secretary of State, and are to hold office during his pleasure.

Examination Boards acting before the passing of the present Act are to continue to act in the same manner, and generally to be in the same position, as if they had been appointed under it.

Regulations for the proceedings of the Examination Boards are contained in the first schedule to the Act, and will be found on p. 198.

The examiners from time to time appointed by the Board are not to be members of the Board, except with the consent of the Secretary of State. They are to conduct the examination in the part of the United Kingdom for which the Board acts. They may from time to time make, alter, and revoke rules as to the conduct of the examinations, and as to the qualifications of applicants, "so, however, that in every such "examination regard shall be had to such know-"ledge as is necessary for the practical working "of mines in that part of the United Kingdom, "and that the examination and qualification of

"applicants for second-class certificates shall be "suitable for practical working miners."

Rules by Secretary of State.

The Secretary of State may from time to time make, alter, and revoke rules as to the places and times of the examinations, and the number and remuneration of the examiners. These Rules have been issued, and will be found on p. 239. See also Home Office letter as to remuneration of examiners, Appendix, p. 243.

A candidate for a first-class certificate who fails in his examination cannot at that examination obtain a second-class certificate, but he may sit at another examination for either a first or second class certificate. See Home Office letter, Appendix, p. 253.

Instructions to candidates.

The instructions to candidates in the various districts (with the exceptions hereinafter mentioned) are now under consideration.

They will be varied in consequence of the new examination for second-class certificates. It is therefore impossible to publish them in the present edition.

The only instructions issued at the time of our going to press are those for the mining districts of East Scotland, Northumberland, South Durham, West Lancashire and North Wales, Nottingham, Derby, &c., and South Wales, which will be found on pp. 272–282.

As the qualifications vary in different districts, candidates for examination should in all cases apply to the secretaries of the various Boards for information, which will be furnished gratuitously.

Examination questions.

Until quite recently it was forbidden to publish the questions asked at the examinations, but lately the publication of the ques-

tions is allowed in the reports of the inspectors in those districts in which the Board do not object. The only questions ever published were by H.M. Inspectors Dickinson and Hall, in their Reports for the year 1886 (Blue Book C—5090 —1887 ; price 9*s.*).

From future reports of the inspectors, candidates will probably be able to see the questions which will have to be satisfactorily answered to pass either of the examinations in the district to which they relate.

Grant of certificate.

When the applicant has been duly reported by the examiners to have passed the examination satisfactorily, and to have given satisfactory evidence as to his sobriety, experience, ability, and general good conduct, the Secretary of State is to deliver to him such a certificate of competency as the case requires, and the certificate is to be in such form as the Secretary of State from time to time directs.

List of certificated managers.

A register of the holders of such certificates is to be kept by such person and in such manner as he from time to time directs. The register under the Act of 1872 is continued by the present Act. Application for information as to the holders of certificates should be addressed to the Home Office. The register is too long to be reprinted in this book.

Fees.

The fee to be paid by an applicant for a first-class certificate is not to exceed £2 ; for a second-class certificate of competency, £1 ; and for a certificate of service as under-manager, 5*s.*

Cancellation, &c., of certificates.

There are provisions as in the former Act, after a public inquiry (section 27), for cancelling or suspending the certificate of any manager or under-manager for incompetency or gross negli-

gence, or for conviction of an offence under the Act, as well as for the renewing and restoring by the Secretary of State of any certificate which has been taken away.

The renewal or restoration of any certificate is to be recorded in the register already referred to.

Copies of certificates.

Copies of certificates may be obtained in case of their loss without negligence, and forgery or any malpractice with respect to them is made a misdemeanour.

Responsibility of manager.

The manager is substantially responsible for the efficient carrying out of the provisions of the Act in their entirety, so far as they relate to the mine under his management, and, as already pointed out, the Act casts upon him, under various circumstances, a primary responsibility (which he can only rebut upon proof) should any person whomsoever contravene or fail to comply with, or permit any other person to contravene or fail to comply with, its numerous stringent provisions.

The responsibility of a colliery manager is not confined to penalties under the present Act, but extends to civil liability, as illustrated by a case arising out of the Baddesley Colliery disaster, a report of which case appeared in the *Birmingham Daily Post* of the 10th, 11th, and 12th of August 1885.

The term "supervision" is used by the Act as distinct from "inspection." With regard to the latter, provision will be found, in the General Rules, for inspection by competent persons, appointed for the several purposes therein named, in respect of matters bearing upon the safety of those in the mine. It is apprehended that the duty of the manager will be to supervise those

persons, and satisfy himself that they perform their duties properly and efficiently in accordance with the Act and special rules, as well as to be satisfied, by similar personal supervision, of the safety and general good order of the whole of the mine under his control; and it must be borne in mind that, if he cannot exercise daily personal supervision, there must be an under-manager nominated to take that duty, but this, as already mentioned, is not to affect the personal responsibility of the manager. Manager.

In a communication from the Home Office, recently addressed to the Mining Association of Great Britain, it is stated as follows:—

"In any mine, or in any part of a mine, which "under section 19 is to be deemed a mine, there "can be but one under-manager, that is, one "person who shall have the statutory responsi- "bility of under-manager, but there is no limit "to the number of persons in the same mine "who may hold certificates, whether of the "first or second class."

There is an exemption from the necessity to employ certificated managers in mines in which less than thirty persons are employed below ground. But an inspector has power, if he should think it necessary, to bring even these under the control of a manager. Exemption.

RETURNS, NOTICES, AND ABANDONMENT.

The returns required to be made by the owner, agent, and manager of a mine are of a very comprehensive character. Returns, notices, and abandonment.

He is to send to the inspector of the district, on behalf of a Secretary of State, on the 21st of

Returns, &c.

January in every year, a correct return, specifying, with respect to the year ending on the preceding 31st of December, the particulars contained in the form in schedule III. of the Act.

This requires the name of the mine, its situation, county, name of owner, manager, undermanager, and postal address. It is to give the number of persons ordinarily employed below ground and above ground, and whether immediately employed by the owner or by any one else under him, and must include persons employed on sidings and private branch railways and tramways, and in the cleaning, washing, and coking of coal, distinguishing the persons so employed, and the different classes and ages of those whose hours of labour are regulated by the Act. It is also to give the quantity of mineral wrought in statute tons, and the number of days in each month on which coal or ironstone has been drawn. It is also to give (part B.), with respect to each seam, the name of the seam, the mode of ventilation, with description, the diameter and depth of shafts, the number of splits, and the quantity of air in cubic feet per minute, and, with respect to airways, the length of the splits in yards and the sectional area in square feet, with the average total quantity of fresh air per minute in cubic feet. Part B. of this return is in lieu of the 1st of January return required under the former Act.

Forms for annual return.

The forms for this return are to be obtained on application to the inspector of the district. This return as to part B. (Ventilation) is not required in the case of a mine employing less than thirty persons under ground, unless or until a Secretary of State otherwise prescribes.

Returns, &c.

The Secretary of State may publish the aggregate results of these returns with respect to any county or inspector's district, or any large portion of a county or inspector's district, and so much of any individual return as does not relate to the quantity of mineral gotten or wrought; but the portion of any individual return relating to the quantity of mineral gotten or wrought is not to be published without the consent of the person making the return, or the owner of the mine to which it relates, and no person, except an inspector, or Secretary of State, "or "any body of commissioners incorporated by "Act of Parliament for the drainage of mines, "and authorized to assess and levy rates in "respect of minerals gotten from such mines," is to be entitled, without such consent, to see such last-named portion of any individual return.

Penalty.

Any owner, agent, or manager who fails to comply with the provision, or makes any return which is to his knowledge false in any particular, is to be guilty of an offence against the Act.

Notice of accidents in mines.

Notice, in writing, is to be given whenever loss of life, or any personal injury whatever, to any person employed in or about a mine occurs by reason of any explosion of gas, or of any explosive, or of any steam boiler, as well as when loss of life, or any serious personal injury, to any person so employed occurs by reason of any accident whatever; and, in such case, the owner, agent, or manager is, within twenty-four hours, to send to the inspector of his district a notice of the accident, specifying its character and the number of persons killed or injured respectively.

A new requirement in case of any such

Place of accident not to be interfered with.

accident provides that, where loss of life or serious personal injury has immediately resulted from an explosion or accident, the place where it occurred is to be left as it was immediately after the explosion or accident until the expiration of three days after sending the notice, or until the visit of the place by an inspector, whichever first happens, unless compliance would tend to increase or continue a danger or would impede the working of the mine.

Notice of resulting death.

Where an accident results in the death of a person injured, notice, in writing, of the death is to be sent to the inspector by the owner, agent, or manager, within twenty-four hours after it comes to his knowledge.

We have prepared forms of notices to comply with the Act, which will be found in the Appendix, pp. 257, 258.

Notice of opening and abandonment.

The owner, agent, or manager must give notice to the inspector, within two months, in each of the following cases:—Where any working is commenced for the purpose of opening a new shaft or any seam; where a shaft or seam is abandoned, or its working discontinued; or where the working of any shaft or seam is recommenced after any abandonment or discontinuance for more than two months. Also

Notice of change in name of mine, &c.

where any change occurs in the name of any mine, or in the name of the owner, agent, or manager, or in the principal officers of any incorporated company owning a mine.

It will be observed that the notice, which in the former Act was only required to be given in the case of a shaft, is also now necessary in the case of *each seam*. The notice as to changes of

name is extended to the principal officers of any company—such, we presume, as the directors and secretary. Returns, &c

Section 66 contains a new provision, which ought to be mentioned here, requiring the owner, agent, or manager to report to the inspector of the district, the result of any proceedings taken under the Act against any person employed in respect of an offence under the Act, within twenty-one days after the hearing of the case. Cases against persons employed to be reported to inspector.

We may remark, with regard to notices under the Act, that they may, unless expressly required to be in print, be in writing or print (including lithograph), or partly in writing and partly in print; and all notices and documents required by the Act to be served by an inspector, or sent to him, may either be delivered personally or served or sent by post by a prepaid letter. If they are served or sent by post, they are to be deemed to have been served and received respectively at the time when the letter containing them would be delivered in the ordinary course of post, and, in proving the service or sending, it will be sufficient to prove that the letter containing the notice was properly addressed and put in the post. Notices.

An accurate plan, shewing the workings up to at least *three* months previously, and the general direction and rate of dip of the strata, together with a section of the strata sunk through, or, if that be not reasonably practicable, a statement of the depth of the shaft, with a section of the seam, is to be kept in the office at the mine. Plan of mine to be kept at office.

Such plan and section are to be produced, on

request, to an inspector at the mine, and they are to be marked with the progress of the workings up to the time of the production, if he so request. The inspector may examine the plan and section, and is authorized, for official purposes only, to copy any part thereof. If they be defective, he may require proper ones to be made at the expense of the owner of the mine, in which case the owner, agent, or manager is to have twenty days for making them, or such further time as may be allowed by a Secretary of State.

Every such plan is to be on a scale of not less than that of the Ordnance Survey of 25 inches to the mile, or on the same scale as the plan for the time being in use at the mine.

Interpretation of "plan."

By the interpretation clause, "plan" includes a correct copy or tracing of any original plan.

Penalty.

For default with respect to the provisions as to the plan and section and their production, or for wilfully withholding any portion thereof, or wilfully refusing, on request, to mark the state of the workings thereon, or the concealment of any part of those workings, or the production of an imperfect or inaccurate plan or section, unless it be shewn to have been done in ignorance, the owner, agent, or manager is to be guilty of an offence against the Act.

Fencing of abandoned mine.

Where any mine is abandoned or its working discontinued, the owner must cause the top of every shaft, and every side entrance from the surface, to be, and to be kept, securely fenced, for the prevention of accidents.

The Act contains a provision that no person is to be precluded by any agreement from doing,

or to be liable under any contract to any damages, penalty, or forfeiture for doing, such acts as may be necessary to comply with the section; and occupiers of land, or other persons, are not wilfully to obstruct such fencing.

Where any shaft is unfenced within 50 yards of any high road, or in open or uninclosed land, proceedings may be taken in respect thereof by the local sanitary authority.

The owner of a mine as already defined is primarily liable to carry out this provision as to fencing.

Plan of abandoned mine.

When any mine or seam is abandoned, the person who is its owner, as defined by the Act, at the time of its abandonment must, within three months, send to the Secretary of State an accurate plan shewing the boundaries of the workings of the mine or seam up to the time of the abandonment, and the position of the workings with regard to the surfaces, and the general direction and rate of dip of the strata, together with a section of the strata sunk through, or, if that is not reasonably practicable, a statement of the depth of the shaft, with a section of the seam. Such plan must be on one of the scales before mentioned. The plan and section are to be preserved under the care of a Secretary of State. No person, however, except an inspector, is to be entitled, without the consent of the "owner" of the mine or seam, to see this plan, when so sent, until after the expiration of ten years from the time of the abandonment. A return similar to the 21st of January return is to be furnished, within three months of the abandonment of any mine or seam, giving the

required particulars since the last annual return, subject to a fine for default of £30.

Six months is given to proceed for the fine after the abandonment, or after the notice to comply with the requirement of the section.

INSPECTION.

Inspection.

The Act gives power to the Secretary of State to appoint fit persons to be inspectors, under whatever title he may from time to time fix, duly publishing their appointment in the *London Gazette*. He assigns them their districts and their duties, awards their salaries, and may remove them from their office.

Inspectors.

In the appointment of inspectors of mines in Wales and Monmouthshire, among candidates otherwise equally qualified, persons having a knowledge of the Welsh language are to be preferred.

The inspectors appointed under the former Act are to continue to act in the same manner as if they had been respectively appointed under the present statute, and any person acting as inspector under the Metalliferous Mines Regulation Act, 1872, may, by direction of the Secretary of State, act as one of the inspectors under the present Act.

Salaries, &c., of inspectors, &c.

The salaries of inspectors and their expenses, and those of a Secretary of State in the execution of the Act, are to continue to be paid out of moneys to be provided by Parliament.

Disqualification.

No inspector is to practise as a land agent or a mining engineer, nor as a manager, viewer, agent, or valuer of mines, or arbitrator in any

difference arising between an owner, agent, or manager of mines; nor may he be in partnership with any such person, or be otherwise employed in any way about any mine, or be a miners' agent, or a mine owner; and no inspector may be a partner or have any interest, direct or indirect, in any mine in the district under his charge. Inspection.

The duties of an inspector are to ascertain whether the Act is complied with in all mines within his jurisdiction; to enter, inspect, and examine any mine, by day or night, at all reasonable times, but so as not to impede or obstruct its working; to examine into and make inquiries respecting the state and condition of any mine, its ventilation, the sufficiency of its special rules, and everything connected with or relating to the safety of the persons employed in that or any contiguous mine, or the care and treatment of the horses and other animals used in the mine; and generally to exercise all other powers necessary for the effective carrying out of the Act. Every person who wilfully obstructs an inspector in the execution of his duty, as well as every owner, agent, or manager who refuses or neglects to furnish him with the means necessary to make any entry, inspection, examination, or inquiry in relation to any mine, is to be guilty of an offence against the Act. Powers and duties of inspectors.

If any inspector finds a mine or anything connected with it, or with the control, management, or direction thereof by the manager, to be dangerous or defective in any respect which is not provided against by the express provisions On finding source of danger.

Inspection.

of the Act or some special rule, so as, in his opinion, to threaten or tend to the bodily injury of any person, he is to give notice, in writing, to either the owner, agent, or manager, setting forth the particulars in which he considers the mine to be dangerous or defective, and requiring the same to be remedied. Unless it be remedied forthwith, he is also to report the same to the Secretary of State.

To give notice.

Owner may object.

If the owner, agent, or manager objects to comply with the notice, he may, within ten days after its receipt, send the grounds of his objection, in writing, to the Secretary of State, and have the matter determined by arbitration. The date of the receipt of the objection is to be deemed the date of the reference, or time from which the steps in the arbitration are to be taken, the application of which will be seen more fully in the remarks under that head.

Owner failing to comply.

An owner, agent, or manager who fails, when no objection is sent, to comply with the requisition of the notice within ten days, or, when there has been an arbitration, to comply with the award within the time fixed by it, is to be guilty of an offence, of which the notice or award is to be deemed written notice. When the proceedings for this offence are heard before the Court, the owner, agent, or manager may give evidence that he has taken active measures for complying with the notice or award, but has not been able to complete the works, though he has used reasonable diligence.

If the Court be satisfied that this is the case, it may adjourn the proceedings for the punishment of the offence, and, if the works are com-

pleted within a reasonable time, no penalty is to be inflicted. Inspection.

No person is to be precluded by any agreement from doing, or to be liable under any contract to any penalty or forfeiture for doing, whatever may be necessary to comply with the provisions of the notice or award. No contract to prevent compliance with notice.

The inspector appears to have power to select for the service of the notice either the owner, agent, or manager, as he may think fit, and the person who receives the notice is the one liable for non-compliance.

Every inspector "of a district" is to make an annual report of his proceedings during the preceding year, to the Secretary of State, and this report is to be laid before both Houses of Parliament; and, in addition, when any accident in a mine has caused loss of life or personal injury to any person, the Secretary of State may, at any time, direct an inspector to make a special report upon it. Annual report of inspector.

The Secretary of State has now the power to appoint a special Court (first provided for by Lord Cross's repealed Act of 1886) for the formal investigation of any explosion or accident, and of its causes and circumstances. Such Court is to consist of a competent person appointed by a Secretary of State to hold the investigation, and an assessor or assessors, possessing legal or special knowledge, may also be appointed to act in holding the same. The investigation is to be held in open court, in such manner, and under such conditions, as the Court may think most effectual for ascertaining the causes and circumstances of the explosion or accident, and Formal investigation when directed by Secretary of State.

Special Court. enabling it to report thereon. The Court has all the powers of a Court of summary jurisdiction, and all the powers of an inspector, and, in addition, the following powers:—

(*a*) Power to enter and inspect.

(*b*) Power to summon and examine all such persons as the Court thinks fit, and to require answers or returns to such inquiries as the Court thinks fit to make.

(*c*) To require the production of all books, papers, and documents.

(*d*) To administer oaths, and require any person examined to make and sign a declaration of the truth of the statements made by him.

Witnesses' expenses

Witnesses' expenses are to be allowed, and, in case of dispute, they are to be certified by a master of one of the superior courts.

Court to report.

The Court is to report to the Secretary of State, stating the causes of the explosion or accident, and its circumstances, with the addition of any observations which the Court thinks it right to make.

Expenses.

All expenses are to be part of the expenses of the Secretary of State in the execution of the Act.

Penalty.

Any person failing to attend without reasonable excuse, which he must prove, or after having had his expenses tendered, and failing to comply with any summons or request of the Court, or preventing or impeding the Court in the execution of its duty, is to be liable to a fine not exceeding £10, and, if he fails to comply with the request for making any return or producing any documents, he is liable to a fine

not exceeding £10 for every day such failure continues. Special Court.

A Secretary of State may cause any special report of an inspector, or any report of such Court, to be made public, at such time and in such manner as he may think fit. Special reports may be published.

The powers and duties of an inspector, as set forth in the Act, do not comprise everything relating to mines which he has power to deal with, and with the supervision of which he is charged. Additional powers of inspectors.

By section 7 of "The Elementary Educa-"tion Act, 1876," it is provided that it shall be the duty of the inspectors and sub-inspectors acting under the Acts relating to factories, workshops, and *mines* respectively, and not of the local authority, to enforce the observance, by the employers of children (under fourteen years of age) in such factories, workshops, and *mines*, of the provisions of that Act respecting the employment of children; but that it shall be the duty of the local authority to assist the said inspectors and sub-inspectors in the performance of their duty, by information and otherwise.

The second sub-section of section 13 of "The "Truck Amendment Act, 1887," declares that it shall be the duty of the inspectors of factories and of *mines* to enforce the provisions of the principal Act (Truck Act, 1831) and of that Act within their districts, so far as respects factories, workshops, and mines inspected by them respectively, and that such inspectors are for that purpose to have the same powers and authorities as they respectively have for the purpose of enforcing the provisions of any Act relating to factories, workshops, or *mines*, and provides that all expenses incurred by them Truck Amendment Act, 1887.

Inspection.

under the section referred to are to be defrayed out of moneys provided by Parliament.

The law relating to truck is dealt with in a special chapter following this Introduction, and the existing sections of the Truck Acts are printed in full after the reprint of the Mines Act.

Factory and Workshop Act, 1878.

Using the term in the sense of the Coal Mines Regulation Act, there are frequently attached to collieries and mines, workshops which come under the regulations of "The Factory and "Workshop Act, 1878." The fourth schedule of that Act (part I.) relates to the non-textile factories, and includes the following:—

"Blast Furnaces," that is to say, any blast furnace or other furnace or premises in or on which the process of smelting or otherwise obtaining any metal from the ores is carried on.

"Iron Mills," that is to say, any mill, forge, or other premises in or on which any process is carried on for converting iron into malleable iron, steel, or tin-plate, or for otherwise making or converting steel.

"Foundries," that is to say, iron foundries, copper foundries, brass foundries, and other premises or places in which the process of casting any metal is carried on, except any premises or places in which such process is carried on by not more than five persons, and as subsidiary to the repair and completion of some other work.

Part II. of the fourth schedule to the Factory and Workshop Act relates to non-textile factories and workshops, and includes—

"Quarries," that is to say, any place, not being a mine, in which persons work in getting slate, stone, coprolites, or other minerals.

"Pit Banks," that is to say, any place above ground, adjoining to a shaft of a mine, in which place the employment of women is not regulated by "The Coal Mines Regulation Act, 1872," or "The Metalliferous Mines Regulation Act, "1872," whether such place does or does not form part of the mine within the meaning of those Acts. Inspection.

The Act under consideration takes the place of the first-named Act of 1872, which it repeals, and provides (section 83) that any enactment or document referring to any Act repealed by it, or to any enactment thereof, is to be construed to refer to the present Act, and to the corresponding enactments thereof.

It may be as well to call attention to the fact that by section 38 of "The Factory and Work-"shop Act, 1878," a girl under the age of sixteen is not to be employed in the making or finishing of bricks or tiles.

We cannot, in this work, give an epitome of the law relating to factories and workshops, but the book by A. Redgrave, Esq., C.B., on this subject is exhaustive and complete, and we must refer our readers to it for full information thereon.*

Under the Explosives Act, 1875, where a magazine or store is established for the purpose of any mine subject to the Coal or Metalliferous Mines Regulation Acts, 1872, by the owner of the mine as defined by such Act, the Secretary of State may, from time to time, by order, direct an inspector under either of those Acts to act, with respect to such magazine or store, as a 38 Vict. c. 17, s. 59.

* Published by Shaw & Sons, Fetter Lane, E.C. Price 5s.

Inspection.

Government inspector under the Explosives Act, and may revoke any such order; and such inspector, whilst such order is in force, is to have for that purpose the same powers and authorities as he has under the Coal and Metalliferous Mines Regulation Acts, and also the powers and authorities of a Government inspector under the Explosives Act.

For full information on this Act, reference should be made to the "Guide Book to the Ex-"plosives Act, 1875," by Colonel V. D. Majendie, C.B., H.M. Chief Inspector of Explosives.*

We now return to the consideration of the Coal Mines Regulation Act, 1887. The next subject treated of is—

ARBITRATION.

Arbitration.

A special code of regulations, similar to those under the Act of 1872, is given for conducting arbitrations. The arbitration is to be between the owner, agent, or manager of the mine on the one hand, and the inspector of mines (on behalf of the Secretary of State) on the other.

Each party is, within fourteen days after the day of reference, to appoint an arbitrator, who must be a practical mining engineer or a person accustomed to the working of mines, and not any person employed or interested in the mine to which the arbitration relates; and an umpire must now be a county court judge, a police or stipendiary magistrate, a recorder of a borough, or a registrar of a county court. The appoint-

* Published by W. Clowes & Sons (Limited), 13 Charing Cross, S.W. Price 2*s*.

ment must be in writing, and notice must be forthwith sent to the other party. It is not revocable without mutual consent. Arbitration.

If either of the parties fail to appoint an arbitrator within fourteen days, the arbitrator appointed by the other party may proceed to hear and determine the matter in difference alone, and to make an award, which is to be final. If, during the reference, either arbitrator die or become incapable to act, or for seven days refuse or neglect to act, the party who appointed such arbitrator may appoint another in his place. If he fail to do so within seven days after notice, in writing, from the other party for that purpose, the remaining arbitrator may proceed alone to make a final award; but in either of these cases when the arbitrator is empowered to act singly upon failure to appoint by either of the parties, the party so failing may, before the single arbitrator has actually proceeded in the arbitration, appoint an arbitrator, who may then act as if no failure had been made.

If the arbitrators fail to make their award within twenty-one days from the day on which the last of them was appointed, or within such extended time, if any, as they may have formally appointed under their hands, the umpire is to decide the matter in difference.

The umpire is to be appointed, in writing, by the arbitrators before they enter upon the matters referred to them, and his decision upon the point referred to him is to be final. In case of his death or incapacity to act, or refusal to make his award within a reasonable time, the

Arbitration.

persons who appointed him are forthwith to appoint another umpire in his place.

If the arbitrators refuse, or fail, or neglect, for seven days after the request of either party, to appoint an umpire, then either party may apply to the chairman of the general or quarter sessions of the peace within the jurisdiction of which the mine, or any shaft of the mine, is situated, who shall appoint an umpire accordingly.

If a single arbitrator fail to make his award within twenty-one days after the day on which he was appointed, the party who appointed him may appoint another arbitrator to act in his place.

There is a new provision that, wherever practicable, arrangements are to be made for the matter in difference being heard at the same time before the arbitrators and the umpire. The arbitrators and their umpire have power to examine the parties and their witnesses on oath. They may also, if they think it expedient, consult any counsel, engineer, or scientific person.

The Secretary of State is to fix the payment, if any, to the arbitrators and umpire, and these, together with the costs of the arbitration, are to be paid by the parties, or one of them, as the award may direct; the portion, if any, payable by the Secretary of State being paid as part of the expenses of inspectors under the Act. The amount, if any, payable by the owner, agent, or manager may be recovered before a Court of summary jurisdiction.

The costs may be taxed on the written application of either party.

Arbitration.

The death, removal, or other change in any of the parties to the arbitration is not to affect the proceedings of an arbitrator or umpire, but, when an award has been made under the Act, the arbitrator or umpire who made it, is to be deemed to have been duly qualified to do so.

It has been decided* (under the former Act) that the duty of an arbitrator acting as sole arbitrator was limited to determining whether the matter complained of by the inspector was dangerous and ought to be remedied, and that the arbitrator had no power to determine what should be the proper remedy, or to direct that any particular remedy should be adopted.

This decision will apply to the present Act (see note to section 42, p. 144).

CORONERS.

Coroners' inquests.

With respect to coroners' inquests on persons whose death may have been caused by explosions or accidents in or about mines, whether above or below ground, it is enacted that the coroner must adjourn the inquest unless an inspector or some person on behalf of a Secretary of State is present to watch the proceedings, and he must send the inspector of the district at least four days' notice, in writing, of the time and place of the adjourned inquest.

Notice to the inspector.

Before the adjournment, however, the body may be identified and its interment ordered. In the case of an accident which has not occasioned the death of more than one person, and

* Secretary of State *v.* Fletcher, L. R. 18 Q. B. D. 339: see Appendix, p. 323.

Inquests.

where the coroner has sent the inspector notice, at such time as to reach him not less than twenty-four hours before the time of holding the inquest, of the time and place of holding the same, an adjournment, in the absence of the inspector, is not imperative if the majority of the jury think it unnecessary to adjourn.

Subject to the order of the coroner, the inspector has power to examine any witness.

Where evidence is given at an inquest, at which an inspector is not present, of any neglect as having caused or contributed to the accident, or of any defect in or about the mine appearing to the coroner or the jury to require a remedy, the coroner is to send to the inspector notice, in writing, of the neglect or defect, under pain of being guilty of an offence under the Act.

Disqualification of jury-man interested in mine.

No person having a personal interest in the mine in which an accident occurred, nor any one employed in it or its management, is to be qualified to serve on a jury at the inquest. The constable or other officer is responsible for the summoning of any such person, and the coroner for allowing him to be sworn or to sit on the jury; and the persons so sitting would appear to be also guilty.

There is a new provision enabling any relative of any person whose death may have been caused by the accident, and the owner, agent, and manager of the mine in which the accident occurred, and any person appointed by the order, in writing, of the majority of the workmen, to attend and examine any witness, either in person or by his counsel, solicitor, or agent, subject to the order of the coroner.

No prosecution can be instituted against a coroner for any offence under the Act except with the consent, in writing, of a Secretary of State.

PART II.

I. GENERAL RULES.

The General Rules, of which we now proceed to give some description, apply to every mine. Not only is every person who contravenes or does not comply with any of these General Rules guilty of an offence against the Act, but, as already stated in the commencement of these remarks, this contravention or non-compliance, against whomsoever proved, is to be deemed the commission of an offence by both the owner, the agent, and the manager, each of whom is to be guilty unless he proves that he has taken all reasonable means to prevent such contravention or non-compliance by publishing these rules, and to the best of his power enforcing them as regulations for the working of the mine. General Rules.

The present statute has added eight to the thirty-one General Rules hitherto in force. They are extended in their application to all parties about the mine.

The introductory paragraph declares that they shall be observed in every mine, "so far as is "reasonably practicable."

These rules are so important, and depend so much upon the exact language used for the

General Rules. adequate construction of each regulation, that the rules themselves should be consulted when occasion arises.

The following observations must therefore be taken as merely introductory to the study of their provisions.

Ventilation of mine. 1. The first part of the 1st general rule is practically the same as under the former Act. An adequate amount of ventilation is to be constantly produced in every mine to dilute the noxious gases and to keep "the working places "of the shafts, levels, stables, and workings of "the mine, and the travelling roads to and from "those working places," in a fit state for the persons employed to work and pass within them.

It has been decided, under the former rule to this effect, that sufficient ventilation is to be constantly produced, and that it is not to be suspended during temporary cessations of work, as, for example, at nights, or on Sundays and other proper days of rest, for during all these times the mine is to be considered as continuing at work, and that so much of the mine must be kept ventilated as is necessary for safety.

There is now an addition to the rule, that, in the case of mines required to be under the control of a certificated manager, the quantity of air in the respective splits or currents must be measured once at least in every month, and entered in a book to be kept for the purpose at the mine.

We have prepared a form of book for this purpose. It will be found in the Appendix, p. 260.

2. The 2nd general rule is new, and provides that, where a fire is used for ventilation in

any mine newly opened after the passing of the Act, the return air, unless it be so diluted as not to be inflammable, must be carried off, clear of the fire, by a dumbdrift or airway. General Rules. Ventilation of mine.

3. The 3rd general rule is also new. It provides that where a mechanical contrivance for ventilation is introduced after the 1st of January 1888, it must be in such a position, and placed under such conditions, as will tend to insure its being uninjured by an explosion.

4. The 4th general rule takes the place of the old general rules 2 and 3. Stations and inspection.

It provides that a station or stations must be appointed at the entrance to the mine, or to different parts of the mine, as the case may require; and the following provisions are enacted:—

(i.) There is to be an inspection, before commencing work, by a competent person appointed for the purpose, not being a contractor for getting minerals in the mine, within such time *immediately before the commencement of each shift* as shall be fixed by the special rules, of every part of the mine, beyond the station, in which workmen are to work or pass during the shift, to ascertain the condition thereof, so far as the presence of gas, ventilation, roof and sides, and general safety are concerned.

No workman is to pass the station until the part beyond has been stated to be safe.

The former general rule on this subject applied only to ventilation. Now the inspection is to extend, in addition, to gas, roof and sides, and general safety.

If inflammable gas has been found within the

General Rules. Stations and inspection.

preceding twelve months, the inspection is to be made with a locked safety lamp.

A full report as to noxious or inflammable gas, defects in roof or sides, or other sources of danger is to be recorded without delay in a book to be kept at the mine, which is to be accessible to the workmen, and is to be in the handwriting of, and signed by, the person who made the inspection.

It will be observed that this report is much more detailed than that required before. The provision that the report book is to be kept at the mine, accessible to the workmen, and that it is to be both written and signed by the person making the inspection, is new.

By the 37th general rule all report books required by the General Rules are to be provided by the owner, agent, or manager, and such books, or a correct copy thereof, are to be kept at the office of the mine, where, as will be seen on reference to the rule itself, they may be inspected and copied.

Two or more shifts succeeding one another without any interval are to be deemed one shift, and in that case only one inspection, before commencing work, is requisite.

(ii.) The second part of the rule relates to inspections during shifts. It provides for a similar inspection being made in the course of each shift, which need not be recorded in a book, but, in the case of a mine worked continuously throughout the twenty-four hours by a succession of shifts, the report of one of such inspections is to be recorded. See forms in Appendix, pp. 262–265.

The recorded inspections made obligatory by

this rule are referred to in sub-head (*g*) of general rule 12, relating to the use of explosives below ground. General Rules.

5. The 5th general rule is in substitution for the former rule No. 29. Inspection of machinery, &c.

It provides for the due inspection of the machinery, &c., above and below ground. A competent person or persons appointed for the purpose is once at least in every twenty-four hours to examine the state of the external parts of the machinery, the state of the guides and conductors in the shafts, and the state of the head-gear, ropes, chains, and other similar appliances of the mine which are in actual use both above and below ground, and is once at least in every week to examine the state of the shafts by which persons ascend or descend, and to make a true report of the result of every such examination.

Every report is to be recorded without delay in a book to be kept at the mine for the purpose, and is to be signed by the person making the inspection.

It will be observed that the guides and conductors have now to be examined and reported upon *daily*, instead of once a week as formerly.

A form of report book under this rule will be found in the Appendix, pp. 266, 267.

6. The 6th rule is the old general rule 4, and provides that all entrances to any place not in actual *use* or course of working and extension are to be properly fenced across their whole width, so as to prevent persons inadvertently entering them. This must be done in every case, whether the places not in actual "use" Fencing entrances.

General Rules. (which word is new) or course of working are suspected to contain dangerous gases or not.

Withdrawal of workmen in case of danger.

7. General rule No. 7 is substantially the same as the former rule No. 6, and provides for the withdrawal of every workman from a mine, or any part thereof, in which *inflammable* gases are found to prevail to a dangerous extent, or which from any cause whatever is dangerous. No person is to be re-admitted into a mine or part so found dangerous, except in so far as is necessary to ascertain the cause of or to remove the danger, or until it is stated not to be dangerous.

A competent person is to be appointed to inspect the mine or part so found dangerous, and, if the danger arises from inflammable gas, he must use a locked safety lamp. In every case he is to make and sign a true report of the condition of the mine or part in a book to be kept at the mine for the purpose.

A form of report book will be found in the Appendix, p. 268.

Safety lamps.

8. This is a new rule. It provides that no lamp or light other than a locked safety lamp is to be allowed or used in any place in a mine in which there is likely to be any such quantity of inflammable gas as to render the use of naked lights dangerous, or in any working approaching near such a place. When it is necessary to work with safety lamps in any part of a ventilating district (which means such part of a seam as has an independent intake commencing from a main intake air course, and an independent return airway terminating at a main return air course), naked lights are not to be used in another part

of the same ventilating district situated between the place where such lamps are being used and the return airway. General Rules.

9. The 9th general rule is new. It provides that safety lamps must be so constructed that they may be safely carried against the air-current ordinarily prevailing in the part of the mine in which they are for the time being in use, even though such current should be inflammable. Construction of safety lamps.

10. General rule No. 10 is an extension of the former rule 7. It provides that a competent person appointed for the purpose must, either at the surface or at the appointed lamp station, examine every lamp immediately before it is taken into the workings for use, and ascertain it to be in safe working order and securely locked; and such lamps are not to be used until this has been done. Examination of safety lamps.

A safety lamp is not to be unlocked except at the appointed lamp station or for firing a shot, and no person, unless he has been appointed either for examining lamps or firing shots, is to have in his possession any contrivance for opening the lock of any safety lamp; and no person is to be possessed of any lucifer match or apparatus of any kind for striking a light except within a completely closed chamber attached to the fuse of the shot.

11. General rule 11 is new, and provides that the position of the lamp stations for lighting or re-lighting safety lamps is not to be in the return air. Lamp stations.

This may necessitate some alteration of lamp stations.

12. This is a new rule in lieu of the old

General Rules. Use of explosives below ground.

general rule 8 ("Gunpowder and Blasting"). As it will require most careful attention, we notice its provisions at length.

No explosive substance is to be stored in a mine. It must only be taken into the mine in cartridges in a *secure* case or canister containing not more than *five* pounds.

A Secretary of State has power, on application, to exempt any mine from so much of the rule as forbids taking an explosive substance into the mine except in cartridges.

A workman is not to have in use at one time in any one place more than one case or canister.

In the process of charging or stemming for blasting, a person is not to use, or have in his possession, any iron or steel pricker, scraper, charger, tamping rod, or stemmer, nor must coal or coal-dust be used for tamping. "Scraper" and "charger" are new, and also the prohibition of coal-dust for tamping.

No explosive is to be forcibly pressed into a hole of insufficient size, or to be unrammed, and no hole is to be bored for a charge at a distance of less than 6 inches from any hole where the charge has missed fire. This is more stringent than the former rule.

In any place in which a locked safety lamp is for the time being required, or which is dry and dusty, no shot is to be fired except by, or under the direction of, a competent person appointed for the purpose, and such person is not to fire a shot or allow it to be fired until he has examined both the place itself and all contiguous accessible places of the same seam within a radius of 20 yards, and found such place safe for firing.

General Rules. Use of explosives below ground.

If in any mine, at either of the four inspections under rule 4 recorded last before a shot is to be fired, inflammable gas has been reported to be present in the ventilating district (as already defined), a shot is not to be fired unless (1) a competent person has examined the place, and has found that such gas has been cleared away, and that there is not at or near the place sufficient gas issuing or accumulated to render it unsafe to fire the shot; or (2) unless the explosive employed is so used with water or other contrivance as to prevent it from inflaming gas, or is of such a nature that it cannot inflame gas.

It will be observed that, under this part of the rule, it will be necessary for the competent person appointed to fire the shot to examine the last four *recorded* inspections of the mine before firing a shot, to see whether any inflammable gas is there recorded, and afterwards to act in strict accordance with the rule.

If the place where a shot is to be fired is dry and dusty, then the shot is not to be fired unless either (1) the place of firing and all contiguous accessible places within a radius of 20 yards are in a wet state from thorough watering, or other treatment equivalent to watering, in all parts where dust is lodged, whether roof, floor, or sides; or (2), where watering would injure the roof or floor, unless the explosive is so used with water or other contrivance as to prevent it from inflaming gas or dust, or is of such a nature that it cannot do so.

If such dry and dusty place is part of, or contiguous to, a main haulage road (meaning a road which has been, or for the time being is,

General Rules. Use of explosives below ground.

in use for moving trams by steam or other mechanical power) shewing dust adhering to the roof and sides, no shot is to be fired there unless (1) both the conditions last mentioned have been observed, or (2) unless such one of them as may be applicable to the particular place has been observed, and, moreover, all workmen have been removed from the seam in which the shot is to be fired, and from all seams communicating with the shaft on the same level, except the men engaged in firing the shot, and such other persons, not exceeding ten, as are necessarily employed in attending to the ventilating furnaces, steam boilers, engines, machinery, winding apparatus, signals, or horses, or in inspecting the mine.

Where a seam of a mine is not divided into separate ventilating districts as defined, the word "seam" is to be substituted for the words "ventilating district."

So much of this rule as requires the explosive substance taken into the mine to be in cartridges, and the provisions relating to a dry and dusty place, and as to watering, removal of workmen, &c., are not to apply to seams of clay or stratified ironstone which are not worked in connection with any coal seam, and which contain no coal in the working.

It will be observed that the old test of "a "blue cap on the flame of the safety lamp" has been abolished.

In addition to these regulations as to firing shots, it will be necessary also to refer to the special rules in force at the particular mine where the explosive is to be used, bearing in mind that the special rules are of the same force

as the General Rules. We are aware of one intended code of special rules at least where the regulations are made more stringent under two heads. First of all, the recorded inspections are to be those of the *morning* fireman's report; and in all cases of shot-firing *in main return airways*, in dusty mines, the provisions of sub-head (i.) as to main haulage roads are to be observed; and there are also other special rules with regard to gunpowder, explosives, blasting, and shot-lighters.

General Rules. Use of explosives below ground.

13. This rule, with the addition of the words in italics, is the same as the former rule No. 9.

Water and boreholes.

It provides that the working approaching a place likely to contain a dangerous accumulation of water is not, *at any point within* 40 *yards of that place*, to exceed 8 feet in width, and there must be constantly kept, at a sufficient distance not less than 5 yards in advance, at least one borehole near the centre of the working, and sufficient flank boreholes on each side.

14. This rule provides that there is to be some proper means of communicating distinct and definite signals in every underground plane on which persons travel, which is self-acting or worked by an engine, windlass, or gin (if exceeding 30 yards in length), between the stopping-places and the ends of the plane, and in every case sufficient manholes for places of refuge must be provided at intervals of not more than 20 yards, or if there is not room for a person to stand between the side of a tub and the side of the plane, then (unless the tubs are moved by an endless chain or rope) at intervals of not more than 10 yards.

Signalling and manholes for engine roads.

General Rules. The latter portion is new.

Manholes for other travelling roads. 15. The 15th rule relates to underground travelling roads where the load is drawn by a horse or other animal. They are to have sufficient manholes at intervals of not more than 50 yards, or places of refuge of sufficient length, and at least 3 feet in width, between the waggons running on the road and the side of such road.

There is a new provision added that there must be at least two proper travelling ways into every steam-engine room and boiler gallery.

Manholes to be kept clear. 16. Every manhole and place of refuge is to be constantly kept clear, and no person is to place anything therein.

Dimensions of travelling roads. 17. This new rule provides that every travelling road on which a horse or other draught animal is used under ground is to be of sufficient dimensions to allow the animal to pass without rubbing against the roof or timbering.

Fencing of old shafts. 18. The top of every unused or air shaft is to be, and be kept, securely fenced.

Fencing entrances. 19. The top and all entrances between the top and bottom, including the sump, if any, of every working, ventilating, or pumping shaft are to be properly fenced, though, if proper precautions are used, the fence may be temporarily removed for repairs and other operations.

"Ventilating shaft" and "sump" are newly introduced.

Casing shafts. 20. Where the natural strata are not safe, every working or pumping shaft is to be securely cased, lined, or otherwise made secure.

Securing roofs and sides. 21. The roof and sides of every travelling road and working place are to be made secure, and, until they are so made secure, no

person is to travel or work in them, unless appointed for the purpose of exploring or repairing. General Rules.

22. This is a new rule. It provides that, where the timbering of the working places is done by the workmen employed therein, suitable timber is to be provided at the working place, gate end, pass bye, siding, or other similar place in the mine convenient to the workmen, and the distance between the sprags or holing props where required is not to exceed 6 feet or such less distance as may be ordered by the owner, agent, or manager. Timbering.

23. Where there is a downcast and a furnace shaft to the same seam, both having apparatus in use for raising and lowering persons, every person employed in the mine is to have the option of using the downcast shaft. Option of workmen of using downcast shaft.

24. A competent male person, not less than twenty-two years of age, is to be appointed for the purpose of working the machinery employed in lowering and raising persons, and he is to be in attendance for that purpose during the whole time that any person is below ground in the mine. Attendance of engineman.

It will be remembered that in the old rule (No. 18) the limit was eighteen years of age. It is provided (section 82) that competent male persons above the age of eighteen, lawfully employed for this purpose before the 1st of January 1888, may continue to be so employed.

The second part of the rule re-enacts the provision contained in section 14 of the old Act, and provides that where any shaft, plane, or level is used for the purpose of communication from one part of a mine to another, through

Shafts—Exceptions.

are employed below ground in the whole of the seams at the same time. In the case of any proved mine, the Secretary of State may also grant an exemption on the ground that the quantity of mineral proved is not sufficient to repay the outlay of a second shaft or outlet in any case where such communication existed and has become unavailable, or the exemption may be granted when the workings in any seam of the mine have reached the boundary, and it is expedient to work away the pillars.

Where this exemption is allowed, the number of persons employed in all the seams in connection with a single shaft or outlet must not exceed twenty. The provisions of the Act with respect to shafts or outlets are not to apply to any mine while a shaft is being sunk or an outlet being made.

The Secretary of State may also exempt, in writing, on such conditions as he may think expedient, any mine where one of the shafts or outlets has become unavailable by reason of some accident; and may also exempt any mine or class of mines by reason of the thinness of the seams, or other exigencies affecting that mine or class of mines, from the provisions of the Act as to the dimensions of the communication between the two shafts or outlets, for such period as he may fix, and so long as the conditions (if any) annexed to the exemption are observed.

DIVISION OF A MINE INTO PARTS.

Division of a mine into parts.

Where two or more parts of a mine are worked separately, the owner, agent, or manager may divide each portion into a separate mine for the

purposes of the Act, by giving a notice, in writing, to that effect to the inspector of the district; and if the Secretary of State object to such division, he may do so by a notice to the owner, agent, or manager, who, if he declines to acquiesce in the objection, may have an arbitration thereupon. The object of this provision appears to be to facilitate the arrangement for a consolidated management of the mine.

CERTIFICATED MANAGERS.

Appointment of manager of mine.

Every mine (except the small mines afterwards mentioned) is to be under a first-class certificated manager, who is to be responsible for the control, management, and direction of the mine. He is to be nominated by the owner or agent, who must send written notice of the manager's name and address to the inspector of the district. The owner or agent may nominate himself to be manager. If any mine is worked after the 1st of January 1888 for more than fourteen days without such a manager, the owner and agent of the mine is each to be liable to a fine not exceeding fifty pounds, and to a further fine not exceeding ten pounds a day for every day during which the mine is so worked.

There is, however, a proviso, as in the former Act, intended to protect an owner who takes reasonable means to comply with the provision.

Temporary manager.

The Act provides that if, for any reasonable cause, there is for the time being no manager of a mine qualified as required, the owner or agent of the mine may appoint any competent person, not holding a certificate under the Act, to be manager for a period not exceeding two months, or such longer period as may elapse before such

person has an opportunity, "in the district "wherein the mine is situate," of obtaining by examination a certificate of competency; but the owner or agent must send to the inspector of the district a written notice of the manager's name and address, with the reason for his appointment.

As already mentioned, the Act does not define the term "manager" in the interpretation of terms, but it for the first time provides for a certificated under-manager, who must hold either a first or second class certificate as described in the Act.

The language of the old Act, which required a mine to be under the control and daily supervision of a manager, was considered in the case of Plant *v.* The Cheadle Valley Coal and Iron Company, heard in the Queen's Bench Division on the 29th of November 1882, in which Lord Chief Justice Coleridge said, in his judgment, that—

Plant v. Cheadle Valley Company.

> "it was clear, from the true construction "of the Act, that it was the duty of the "manager to be in the mine day by day to "supervise it, and when he undertook this "most onerous duty—for onerous in truth "it was—if he desired at any time to be "away, then the Act required that he "should provide some other certificated "colliery manager to fill his place during "the period of his absence."

Manager.

The present Act directs that, in every mine required to be under the control of a certificated manager, *daily personal supervision* shall be exercised either by the manager, or by an under-manager, nominated, in writing, by the owner or agent of the mine. He must hold either a first or second class certificate, and, in the absence of

the manager, the under-manager is to have the same responsibility, and be subject to the same liabilities, as the manager, but the nomination of an under-manager is not to affect the personal responsibility of the manager. Manager.

A contractor for mineral, or person employed by such a contractor, is not eligible for the post either of manager or of under-manager.

There were two kinds of certificates under the repealed Act of 1872 which are equivalent to first-class certificates under the present Act, and which are those either of competency after passing an examination, or of service.

Under the present Act there are also two descriptions of certificates of competency—viz., (1) a first-class certificate, that is, a certificate of fitness to be manager, which is obtained by passing an examination as hereinafter mentioned, and (2) a second-class certificate, of fitness to be under-manager. Second-class certificates are of two sorts, obtainable either by passing the examination hereinafter described, or by satisfying a Secretary of State that the applicant either before the passing of the Act (16th of September 1887) was exercising, and that he has since that date exercised, or that he has at any time within five years before the passing of the Act, for a period of not less than twelve months, exercised functions "substantially corresponding to those "of an under-manager in a mine." No person is to be entitled to a certificate under the Act unless he has had practical experience in a mine for at least five years.

Forms of application for a certificate of service as under-manager can be obtained from the Home Office, on application, in the form given

Manager.

in the Appendix, which will be found on p. 235. The form of application will shew what information must be given to the Secretary of State before the application is acceded to (p. 236).

Examination Board districts.

For the purpose of granting certificates of competency, the country is at present divided into areas corresponding with the districts of the inspectors already indicated, and the several examinations are held in the following months:—

Newcastle district	Jan.	Durham district	July.
South Staffordshire district	Jan.	South-western district	July.
South Wales district	Jan.	Midland district	Oct.
East Scotland district	May.	West Scotland district	Nov.
North Staffordshire district	June.	Manchester district, which includes Ireland	Dec.
Yorkshire and Lincolnshire district	June.		
Liverpool district	June.		

Notice of the intended examinations is advertised as a rule in three newspapers circulating in each district. In the Liverpool district, which includes North Wales, the notice is advertised in four newspapers. These are nominated for the approval of the Secretary of State by the various Examination Boards.

A candidate may appear for examination in any district.

Constitution of Examination Boards.

The Secretary of State has determined that the Examination Boards are to continue to be constituted as heretofore for each district in charge of an inspector of mines, and official notice is given of the persons who are appointed to act as secretaries of the several Boards of Examination for the granting of managers' and under-managers' certificates of competency, and applicants for first or second class certificates of competency are directed to apply for all necessary

information to the secretary of the Board for the district in which they desire to be examined. (See copy official notice, and list of names and addresses of secretaries, p. 232.)

Examiners.

For the purpose of granting these certificates, examiners are to be appointed by the Board for each district. Each Board is to consist of ten persons—viz., three owners of mines; three persons employed, "or who have been employed," in or about any mine; three mining engineers, agents or managers of mines, or coal-viewers, to be severally selected from the districts defined; and one inspector.

The members of the Board are to be appointed and may be removed by a Secretary of State, and are to hold office during his pleasure.

Examination Boards acting before the passing of the present Act are to continue to act in the same manner, and generally to be in the same position, as if they had been appointed under it.

Regulations for the proceedings of the Examination Boards are contained in the first schedule to the Act, and will be found on p. 198.

The examiners from time to time appointed by the Board are not to be members of the Board, except with the consent of the Secretary of State. They are to conduct the examination in the part of the United Kingdom for which the Board acts. They may from time to time make, alter, and revoke rules as to the conduct of the examinations, and as to the qualifications of applicants, "so, however, that in every such "examination regard shall be had to such know-"ledge as is necessary for the practical working "of mines in that part of the United Kingdom, "and that the examination and qualification of

"applicants for second-class certificates shall be "suitable for practical working miners."

Rules by Secretary of State.

The Secretary of State may from time to time make, alter, and revoke rules as to the places and times of the examinations, and the number and remuneration of the examiners. These Rules have been issued, and will be found on p. 239. See also Home Office letter as to remuneration of examiners, Appendix, p. 243.

A candidate for a first-class certificate who fails in his examination cannot at that examination obtain a second-class certificate, but he may sit at another examination for either a first or second class certificate. See Home Office letter, Appendix, p. 253.

Instructions to candidates.

The instructions to candidates in the various districts (with the exceptions hereinafter mentioned) are now under consideration.

They will be varied in consequence of the new examination for second-class certificates. It is therefore impossible to publish them in the present edition.

The only instructions issued at the time of our going to press are those for the mining districts of East Scotland, Northumberland, South Durham, West Lancashire and North Wales, Nottingham, Derby, &c., and South Wales, which will be found on pp. 272–282.

As the qualifications vary in different districts, candidates for examination should in all cases apply to the secretaries of the various Boards for information, which will be furnished gratuitously.

Examination questions.

Until quite recently it was forbidden to publish the questions asked at the examinations, but lately the publication of the ques-

tions is allowed in the reports of the inspectors in those districts in which the Board do not object. The only questions ever published were by H.M. Inspectors Dickinson and Hall, in their Reports for the year 1886 (Blue Book C—5090 —1887 ; price 9*s.*).

From future reports of the inspectors, candidates will probably be able to see the questions which will have to be satisfactorily answered to pass either of the examinations in the district to which they relate.

Grant of certificate.

When the applicant has been duly reported by the examiners to have passed the examination satisfactorily, and to have given satisfactory evidence as to his sobriety, experience, ability, and general good conduct, the Secretary of State is to deliver to him such a certificate of competency as the case requires, and the certificate is to be in such form as the Secretary of State from time to time directs.

List of certificated managers.

A register of the holders of such certificates is to be kept by such person and in such manner as he from time to time directs. The register under the Act of 1872 is continued by the present Act. Application for information as to the holders of certificates should be addressed to the Home Office. The register is too long to be reprinted in this book.

Fees.

The fee to be paid by an applicant for a first-class certificate is not to exceed £2 ; for a second-class certificate of competency, £1 ; and for a certificate of service as under-manager, 5*s.*

Cancellation, &c., of certificates.

There are provisions as in the former Act, after a public inquiry (section 27), for cancelling or suspending the certificate of any manager or under-manager for incompetency or gross negli-

gence, or for conviction of an offence under the Act, as well as for the renewing and restoring by the Secretary of State of any certificate which has been taken away.

The renewal or restoration of any certificate is to be recorded in the register already referred to.

Copies of certificates.

Copies of certificates may be obtained in case of their loss without negligence, and forgery or any malpractice with respect to them is made a misdemeanour.

Responsibility of manager.

The manager is substantially responsible for the efficient carrying out of the provisions of the Act in their entirety, so far as they relate to the mine under his management, and, as already pointed out, the Act casts upon him, under various circumstances, a primary responsibility (which he can only rebut upon proof) should any person whomsoever contravene or fail to comply with, or permit any other person to contravene or fail to comply with, its numerous stringent provisions.

The responsibility of a colliery manager is not confined to penalties under the present Act, but extends to civil liability, as illustrated by a case arising out of the Baddesley Colliery disaster, a report of which case appeared in the *Birmingham Daily Post* of the 10th, 11th, and 12th of August 1885.

The term "supervision" is used by the Act as distinct from "inspection." With regard to the latter, provision will be found, in the General Rules, for inspection by competent persons, appointed for the several purposes therein named, in respect of matters bearing upon the safety of those in the mine. It is apprehended that the duty of the manager will be to supervise those

persons, and satisfy himself that they perform their duties properly and efficiently in accordance with the Act and special rules, as well as to be satisfied, by similar personal supervision, of the safety and general good order of the whole of the mine under his control; and it must be borne in mind that, if he cannot exercise daily personal supervision, there must be an under-manager nominated to take that duty, but this, as already mentioned, is not to affect the personal responsibility of the manager. Manager.

In a communication from the Home Office, recently addressed to the Mining Association of Great Britain, it is stated as follows:—

"In any mine, or in any part of a mine, which "under section 19 is to be deemed a mine, there "can be but one under-manager, that is, one "person who shall have the statutory responsi- "bility of under-manager, but there is no limit "to the number of persons in the same mine "who may hold certificates, whether of the "first or second class."

There is an exemption from the necessity to employ certificated managers in mines in which less than thirty persons are employed below ground. But an inspector has power, if he should think it necessary, to bring even these under the control of a manager. Exemption.

RETURNS, NOTICES, AND ABANDONMENT.

The returns required to be made by the owner, agent, and manager of a mine are of a very comprehensive character. Returns, notices, and abandonment.

He is to send to the inspector of the district, on behalf of a Secretary of State, on the 21st of

Returns, &c.

January in every year, a correct return, specifying, with respect to the year ending on the preceding 31st of December, the particulars contained in the form in schedule III. of the Act.

This requires the name of the mine, its situation, county, name of owner, manager, under-manager, and postal address. It is to give the number of persons ordinarily employed below ground and above ground, and whether immediately employed by the owner or by any one else under him, and must include persons employed on sidings and private branch railways and tramways, and in the cleaning, washing, and coking of coal, distinguishing the persons so employed, and the different classes and ages of those whose hours of labour are regulated by the Act. It is also to give the quantity of mineral wrought in statute tons, and the number of days in each month on which coal or ironstone has been drawn. It is also to give (part B.), with respect to each seam, the name of the seam, the mode of ventilation, with description, the diameter and depth of shafts, the number of splits, and the quantity of air in cubic feet per minute, and, with respect to airways, the length of the splits in yards and the sectional area in square feet, with the average total quantity of fresh air per minute in cubic feet. Part B. of this return is in lieu of the 1st of January return required under the former Act.

Forms for annual return.

The forms for this return are to be obtained on application to the inspector of the district. This return as to part B. (Ventilation) is not required in the case of a mine employing less than thirty persons under ground, unless or until a Secretary of State otherwise prescribes.

Returns, &c.

The Secretary of State may publish the aggregate results of these returns with respect to any county or inspector's district, or any large portion of a county or inspector's district, and so much of any individual return as does not relate to the quantity of mineral gotten or wrought; but the portion of any individual return relating to the quantity of mineral gotten or wrought is not to be published without the consent of the person making the return, or the owner of the mine to which it relates, and no person, except an inspector, or Secretary of State, "or "any body of commissioners incorporated by "Act of Parliament for the drainage of mines, "and authorized to assess and levy rates in "respect of minerals gotten from such mines," is to be entitled, without such consent, to see such last-named portion of any individual return.

Penalty.

Any owner, agent, or manager who fails to comply with the provision, or makes any return which is to his knowledge false in any particular, is to be guilty of an offence against the Act.

Notice of accidents in mines.

Notice, in writing, is to be given whenever loss of life, or any personal injury whatever, to any person employed in or about a mine occurs by reason of any explosion of gas, or of any explosive, or of any steam boiler, as well as when loss of life, or any serious personal injury, to any person so employed occurs by reason of any accident whatever; and, in such case, the owner, agent, or manager is, within twenty-four hours, to send to the inspector of his district a notice of the accident, specifying its character and the number of persons killed or injured respectively.

A new requirement in case of any such

Place of accident not to be interfered with.

accident provides that, where loss of life or serious personal injury has immediately resulted from an explosion or accident, the place where it occurred is to be left as it was immediately after the explosion or accident until the expiration of three days after sending the notice, or until the visit of the place by an inspector, whichever first happens, unless compliance would tend to increase or continue a danger or would impede the working of the mine.

Notice of resulting death.

Where an accident results in the death of a person injured, notice, in writing, of the death is to be sent to the inspector by the owner, agent, or manager, within twenty-four hours after it comes to his knowledge.

We have prepared forms of notices to comply with the Act, which will be found in the Appendix, pp. 257, 258.

Notice of opening and abandonment.

The owner, agent, or manager must give notice to the inspector, within two months, in each of the following cases:—Where any working is commenced for the purpose of opening a new shaft or any seam; where a shaft or seam is abandoned, or its working discontinued; or where the working of any shaft or seam is recommenced after any abandonment or discontinuance for more than two months. Also where any change occurs in the name of any mine, or in the name of the owner, agent, or manager, or in the principal officers of any incorporated company owning a mine.

Notice of change in name of mine, &c.

It will be observed that the notice, which in the former Act was only required to be given in the case of a shaft, is also now necessary in the case of *each seam*. The notice as to changes of

name is extended to the principal officers of any company—such, we presume, as the directors and secretary. Returns, &c

Section 66 contains a new provision, which ought to be mentioned here, requiring the owner, agent, or manager to report to the inspector of the district, the result of any proceedings taken under the Act against any person employed in respect of an offence under the Act, within twenty-one days after the hearing of the case. Cases against persons employed to be reported to inspector.

We may remark, with regard to notices under the Act, that they may, unless expressly required to be in print, be in writing or print (including lithograph), or partly in writing and partly in print; and all notices and documents required by the Act to be served by an inspector, or sent to him, may either be delivered personally or served or sent by post by a prepaid letter. If they are served or sent by post, they are to be deemed to have been served and received respectively at the time when the letter containing them would be delivered in the ordinary course of post, and, in proving the service or sending, it will be sufficient to prove that the letter containing the notice was properly addressed and put in the post. Notices.

An accurate plan, shewing the workings up to at least *three* months previously, and the general direction and rate of dip of the strata, together with a section of the strata sunk through, or, if that be not reasonably practicable, a statement of the depth of the shaft, with a section of the seam, is to be kept in the office at the mine. Plan of mine to be kept at office.

Such plan and section are to be produced, on

request, to an inspector at the mine, and they are to be marked with the progress of the workings up to the time of the production, if he so request. The inspector may examine the plan and section, and is authorized, for official purposes only, to copy any part thereof. If they be defective, he may require proper ones to be made at the expense of the owner of the mine, in which case the owner, agent, or manager is to have twenty days for making them, or such further time as may be allowed by a Secretary of State.

Every such plan is to be on a scale of not less than that of the Ordnance Survey of 25 inches to the mile, or on the same scale as the plan for the time being in use at the mine.

Interpretation of "plan."

By the interpretation clause, "plan" includes a correct copy or tracing of any original plan.

Penalty.

For default with respect to the provisions as to the plan and section and their production, or for wilfully withholding any portion thereof, or wilfully refusing, on request, to mark the state of the workings thereon, or the concealment of any part of those workings, or the production of an imperfect or inaccurate plan or section, unless it be shewn to have been done in ignorance, the owner, agent, or manager is to be guilty of an offence against the Act.

Fencing of abandoned mine.

Where any mine is abandoned or its working discontinued, the owner must cause the top of every shaft, and every side entrance from the surface, to be, and to be kept, securely fenced, for the prevention of accidents.

The Act contains a provision that no person is to be precluded by any agreement from doing,

or to be liable under any contract to any damages, penalty, or forfeiture for doing, such acts as may be necessary to comply with the section; and occupiers of land, or other persons, are not wilfully to obstruct such fencing.

Where any shaft is unfenced within 50 yards of any high road, or in open or uninclosed land, proceedings may be taken in respect thereof by the local sanitary authority.

The owner of a mine as already defined is primarily liable to carry out this provision as to fencing.

Plan of abandoned mine.

When any mine or seam is abandoned, the person who is its owner, as defined by the Act, at the time of its abandonment must, within three months, send to the Secretary of State an accurate plan shewing the boundaries of the workings of the mine or seam up to the time of the abandonment, and the position of the workings with regard to the surfaces, and the general direction and rate of dip of the strata, together with a section of the strata sunk through, or, if that is not reasonably practicable, a statement of the depth of the shaft, with a section of the seam. Such plan must be on one of the scales before mentioned. The plan and section are to be preserved under the care of a Secretary of State. No person, however, except an inspector, is to be entitled, without the consent of the "owner" of the mine or seam, to see this plan, when so sent, until after the expiration of ten years from the time of the abandonment. A return similar to the 21st of January return is to be furnished, within three months of the abandonment of any mine or seam, giving the

required particulars since the last annual return, subject to a fine for default of £30.

Six months is given to proceed for the fine after the abandonment, or after the notice to comply with the requirement of the section.

INSPECTION.

Inspection.

The Act gives power to the Secretary of State to appoint fit persons to be inspectors, under whatever title he may from time to time fix, duly publishing their appointment in the *London Gazette*. He assigns them their districts and their duties, awards their salaries, and may remove them from their office.

Inspectors.

In the appointment of inspectors of mines in Wales and Monmouthshire, among candidates otherwise equally qualified, persons having a knowledge of the Welsh language are to be preferred.

The inspectors appointed under the former Act are to continue to act in the same manner as if they had been respectively appointed under the present statute, and any person acting as inspector under the Metalliferous Mines Regulation Act, 1872, may, by direction of the Secretary of State, act as one of the inspectors under the present Act.

Salaries, &c., of inspectors, &c.

The salaries of inspectors and their expenses, and those of a Secretary of State in the execution of the Act, are to continue to be paid out of moneys to be provided by Parliament.

Disqualification.

No inspector is to practise as a land agent or a mining engineer, nor as a manager, viewer, agent, or valuer of mines, or arbitrator in any

difference arising between an owner, agent, or manager of mines; nor may he be in partnership with any such person, or be otherwise employed in any way about any mine, or be a miners' agent, or a mine owner; and no inspector may be a partner or have any interest, direct or indirect, in any mine in the district under his charge. Inspection.

The duties of an inspector are to ascertain whether the Act is complied with in all mines within his jurisdiction; to enter, inspect, and examine any mine, by day or night, at all reasonable times, but so as not to impede or obstruct its working; to examine into and make inquiries respecting the state and condition of any mine, its ventilation, the sufficiency of its special rules, and everything connected with or relating to the safety of the persons employed in that or any contiguous mine, or the care and treatment of the horses and other animals used in the mine; and generally to exercise all other powers necessary for the effective carrying out of the Act. Every person who wilfully obstructs an inspector in the execution of his duty, as well as every owner, agent, or manager who refuses or neglects to furnish him with the means necessary to make any entry, inspection, examination, or inquiry in relation to any mine, is to be guilty of an offence against the Act. Powers and duties of inspectors.

If any inspector finds a mine or anything connected with it, or with the control, management, or direction thereof by the manager, to be dangerous or defective in any respect which is not provided against by the express provisions On finding source of danger.

Inspection.

of the Act or some special rule, so as, in his opinion, to threaten or tend to the bodily injury of any person, he is to give notice, in writing, to either the owner, agent, or manager, setting forth the particulars in which he considers the mine to be dangerous or defective, and requiring the same to be remedied. Unless it be remedied forthwith, he is also to report the same to the Secretary of State.

To give notice.

Owner may object.

If the owner, agent, or manager objects to comply with the notice, he may, within ten days after its receipt, send the grounds of his objection, in writing, to the Secretary of State, and have the matter determined by arbitration. The date of the receipt of the objection is to be deemed the date of the reference, or time from which the steps in the arbitration are to be taken, the application of which will be seen more fully in the remarks under that head.

Owner failing to comply.

An owner, agent, or manager who fails, when no objection is sent, to comply with the requisition of the notice within ten days, or, when there has been an arbitration, to comply with the award within the time fixed by it, is to be guilty of an offence, of which the notice or award is to be deemed written notice. When the proceedings for this offence are heard before the Court, the owner, agent, or manager may give evidence that he has taken active measures for complying with the notice or award, but has not been able to complete the works, though he has used reasonable diligence.

If the Court be satisfied that this is the case, it may adjourn the proceedings for the punishment of the offence, and, if the works are com-

pleted within a reasonable time, no penalty is to be inflicted. Inspection.

No person is to be precluded by any agreement from doing, or to be liable under any contract to any penalty or forfeiture for doing, whatever may be necessary to comply with the provisions of the notice or award. No contract to prevent compliance with notice.

The inspector appears to have power to select for the service of the notice either the owner, agent, or manager, as he may think fit, and the person who receives the notice is the one liable for non-compliance.

Every inspector "of a district" is to make an annual report of his proceedings during the preceding year, to the Secretary of State, and this report is to be laid before both Houses of Parliament; and, in addition, when any accident in a mine has caused loss of life or personal injury to any person, the Secretary of State may, at any time, direct an inspector to make a special report upon it. Annual report of inspector.

The Secretary of State has now the power to appoint a special Court (first provided for by Lord Cross's repealed Act of 1886) for the formal investigation of any explosion or accident, and of its causes and circumstances. Such Court is to consist of a competent person appointed by a Secretary of State to hold the investigation, and an assessor or assessors, possessing legal or special knowledge, may also be appointed to act in holding the same. The investigation is to be held in open court, in such manner, and under such conditions, as the Court may think most effectual for ascertaining the causes and circumstances of the explosion or accident, and Formal investigation when directed by Secretary of State.

Special Court. enabling it to report thereon. The Court has all the powers of a Court of summary jurisdiction, and all the powers of an inspector, and, in addition, the following powers:—

(*a*) Power to enter and inspect.

(*b*) Power to summon and examine all such persons as the Court thinks fit, and to require answers or returns to such inquiries as the Court thinks fit to make.

(*c*) To require the production of all books, papers, and documents.

(*d*) To administer oaths, and require any person examined to make and sign a declaration of the truth of the statements made by him.

Witnesses' expenses. Witnesses' expenses are to be allowed, and, in case of dispute, they are to be certified by a master of one of the superior courts.

Court to report. The Court is to report to the Secretary of State, stating the causes of the explosion or accident, and its circumstances, with the addition of any observations which the Court thinks it right to make.

Expenses. All expenses are to be part of the expenses of the Secretary of State in the execution of the Act.

Penalty. Any person failing to attend without reasonable excuse, which he must prove, or after having had his expenses tendered, and failing to comply with any summons or request of the Court, or preventing or impeding the Court in the execution of its duty, is to be liable to a fine not exceeding £10, and, if he fails to comply with the request for making any return or producing any documents, he is liable to a fine

not exceeding £10 for every day such failure continues. Special Court.

A Secretary of State may cause any special report of an inspector, or any report of such Court, to be made public, at such time and in such manner as he may think fit. Special reports may be published.

The powers and duties of an inspector, as set forth in the Act, do not comprise everything relating to mines which he has power to deal with, and with the supervision of which he is charged. Additional powers of inspectors.

By section 7 of "The Elementary Educa-"tion Act, 1876," it is provided that it shall be the duty of the inspectors and sub-inspectors acting under the Acts relating to factories, workshops, and *mines* respectively, and not of the local authority, to enforce the observance, by the employers of children (under fourteen years of age) in such factories, workshops, and *mines*, of the provisions of that Act respecting the employment of children; but that it shall be the duty of the local authority to assist the said inspectors and sub-inspectors in the performance of their duty, by information and otherwise.

The second sub-section of section 13 of "The "Truck Amendment Act, 1887," declares that it shall be the duty of the inspectors of factories and of *mines* to enforce the provisions of the principal Act (Truck Act, 1831) and of that Act within their districts, so far as respects factories, workshops, and mines inspected by them respectively, and that such inspectors are for that purpose to have the same powers and authorities as they respectively have for the purpose of enforcing the provisions of any Act relating to factories, workshops, or *mines*, and provides that all expenses incurred by them Truck Amendment Act, 1887.

Inspection.

under the section referred to are to be defrayed out of moneys provided by Parliament.

The law relating to truck is dealt with in a special chapter following this Introduction, and the existing sections of the Truck Acts are printed in full after the reprint of the Mines Act.

Factory and Workshop Act, 1878.

Using the term in the sense of the Coal Mines Regulation Act, there are frequently attached to collieries and mines, workshops which come under the regulations of "The Factory and "Workshop Act, 1878." The fourth schedule of that Act (part I.) relates to the non-textile factories, and includes the following:—

"Blast Furnaces," that is to say, any blast furnace or other furnace or premises in or on which the process of smelting or otherwise obtaining any metal from the ores is carried on.

"Iron Mills," that is to say, any mill, forge, or other premises in or on which any process is carried on for converting iron into malleable iron, steel, or tin-plate, or for otherwise making or converting steel.

"Foundries," that is to say, iron foundries, copper foundries, brass foundries, and other premises or places in which the process of casting any metal is carried on, except any premises or places in which such process is carried on by not more than five persons, and as subsidiary to the repair and completion of some other work.

Part II. of the fourth schedule to the Factory and Workshop Act relates to non-textile factories and workshops, and includes—

"Quarries," that is to say, any place, not being a mine, in which persons work in getting slate, stone, coprolites, or other minerals.

"Pit Banks," that is to say, any place above ground, adjoining to a shaft of a mine, in which place the employment of women is not regulated by "The Coal Mines Regulation Act, 1872," or "The Metalliferous Mines Regulation Act, "1872," whether such place does or does not form part of the mine within the meaning of those Acts. Inspection.

The Act under consideration takes the place of the first-named Act of 1872, which it repeals, and provides (section 83) that any enactment or document referring to any Act repealed by it, or to any enactment thereof, is to be construed to refer to the present Act, and to the corresponding enactments thereof.

It may be as well to call attention to the fact that by section 38 of "The Factory and Work-"shop Act, 1878," a girl under the age of sixteen is not to be employed in the making or finishing of bricks or tiles.

We cannot, in this work, give an epitome of the law relating to factories and workshops, but the book by A. Redgrave, Esq., C.B., on this subject is exhaustive and complete, and we must refer our readers to it for full information thereon.*

Under the Explosives Act, 1875, where a magazine or store is established for the purpose of any mine subject to the Coal or Metalliferous Mines Regulation Acts, 1872, by the owner of the mine as defined by such Act, the Secretary of State may, from time to time, by order, direct an inspector under either of those Acts to act, with respect to such magazine or store, as a 38 Vict. c. 17, s. 59.

* Published by Shaw & Sons, Fetter Lane, E.C. Price 5s.

Inspection.

Government inspector under the Explosives Act, and may revoke any such order; and such inspector, whilst such order is in force, is to have for that purpose the same powers and authorities as he has under the Coal and Metalliferous Mines Regulation Acts, and also the powers and authorities of a Government inspector under the Explosives Act.

For full information on this Act, reference should be made to the "Guide Book to the Ex-"plosives Act, 1875," by Colonel V. D. Majendie, C.B., H.M. Chief Inspector of Explosives.*

We now return to the consideration of the Coal Mines Regulation Act, 1887. The next subject treated of is—

ARBITRATION.

Arbitration.

A special code of regulations, similar to those under the Act of 1872, is given for conducting arbitrations. The arbitration is to be between the owner, agent, or manager of the mine on the one hand, and the inspector of mines (on behalf of the Secretary of State) on the other.

Each party is, within fourteen days after the day of reference, to appoint an arbitrator, who must be a practical mining engineer or a person accustomed to the working of mines, and not any person employed or interested in the mine to which the arbitration relates; and an umpire must now be a county court judge, a police or stipendiary magistrate, a recorder of a borough, or a registrar of a county court. The appoint-

* Published by W. Clowes & Sons (Limited), 13 Charing Cross, S.W. Price 2*s*.

ment must be in writing, and notice must be forthwith sent to the other party. It is not revocable without mutual consent. Arbitration.

If either of the parties fail to appoint an arbitrator within fourteen days, the arbitrator appointed by the other party may proceed to hear and determine the matter in difference alone, and to make an award, which is to be final. If, during the reference, either arbitrator die or become incapable to act, or for seven days refuse or neglect to act, the party who appointed such arbitrator may appoint another in his place. If he fail to do so within seven days after notice, in writing, from the other party for that purpose, the remaining arbitrator may proceed alone to make a final award; but in either of these cases when the arbitrator is empowered to act singly upon failure to appoint by either of the parties, the party so failing may, before the single arbitrator has actually proceeded in the arbitration, appoint an arbitrator, who may then act as if no failure had been made.

If the arbitrators fail to make their award within twenty-one days from the day on which the last of them was appointed, or within such extended time, if any, as they may have formally appointed under their hands, the umpire is to decide the matter in difference.

The umpire is to be appointed, in writing, by the arbitrators before they enter upon the matters referred to them, and his decision upon the point referred to him is to be final. In case of his death or incapacity to act, or refusal to make his award within a reasonable time, the

Arbitration.

persons who appointed him are forthwith to appoint another umpire in his place.

If the arbitrators refuse, or fail, or neglect, for seven days after the request of either party, to appoint an umpire, then either party may apply to the chairman of the general or quarter sessions of the peace within the jurisdiction of which the mine, or any shaft of the mine, is situated, who shall appoint an umpire accordingly.

If a single arbitrator fail to make his award within twenty-one days after the day on which he was appointed, the party who appointed him may appoint another arbitrator to act in his place.

There is a new provision that, wherever practicable, arrangements are to be made for the matter in difference being heard at the same time before the arbitrators and the umpire. The arbitrators and their umpire have power to examine the parties and their witnesses on oath. They may also, if they think it expedient, consult any counsel, engineer, or scientific person.

The Secretary of State is to fix the payment, if any, to the arbitrators and umpire, and these, together with the costs of the arbitration, are to be paid by the parties, or one of them, as the award may direct; the portion, if any, payable by the Secretary of State being paid as part of the expenses of inspectors under the Act. The amount, if any, payable by the owner, agent, or manager may be recovered before a Court of summary jurisdiction.

The costs may be taxed on the written application of either party.

Arbitration.

The death, removal, or other change in any of the parties to the arbitration is not to affect the proceedings of an arbitrator or umpire, but, when an award has been made under the Act, the arbitrator or umpire who made it, is to be deemed to have been duly qualified to do so.

It has been decided* (under the former Act) that the duty of an arbitrator acting as sole arbitrator was limited to determining whether the matter complained of by the inspector was dangerous and ought to be remedied, and that the arbitrator had no power to determine what should be the proper remedy, or to direct that any particular remedy should be adopted.

This decision will apply to the present Act (see note to section 42, p. 144).

CORONERS.

Coroners' inquests.

With respect to coroners' inquests on persons whose death may have been caused by explosions or accidents in or about mines, whether above or below ground, it is enacted that the coroner must adjourn the inquest unless an inspector or some person on behalf of a Secretary of State is present to watch the proceedings, and he must send the inspector of the district at least four days' notice, in writing, of the time and place of the adjourned inquest.

Notice to the inspector.

Before the adjournment, however, the body may be identified and its interment ordered. In the case of an accident which has not occasioned the death of more than one person, and

* Secretary of State v. Fletcher, L. R. 18 Q. B. D. 339: see Appendix, p. 323.

Inquests.

where the coroner has sent the inspector notice, at such time as to reach him not less than twenty-four hours before the time of holding the inquest, of the time and place of holding the same, an adjournment, in the absence of the inspector, is not imperative if the majority of the jury think it unnecessary to adjourn.

Subject to the order of the coroner, the inspector has power to examine any witness.

Where evidence is given at an inquest, at which an inspector is not present, of any neglect as having caused or contributed to the accident, or of any defect in or about the mine appearing to the coroner or the jury to require a remedy, the coroner is to send to the inspector notice, in writing, of the neglect or defect, under pain of being guilty of an offence under the Act.

Disqualification of jurymen interested in mine.

No person having a personal interest in the mine in which an accident occurred, nor any one employed in it or its management, is to be qualified to serve on a jury at the inquest. The constable or other officer is responsible for the summoning of any such person, and the coroner for allowing him to be sworn or to sit on the jury; and the persons so sitting would appear to be also guilty.

There is a new provision enabling any relative of any person whose death may have been caused by the accident, and the owner, agent, and manager of the mine in which the accident occurred, and any person appointed by the order, in writing, of the majority of the workmen, to attend and examine any witness, either in person or by his counsel, solicitor, or agent, subject to the order of the coroner.

No prosecution can be instituted against a coroner for any offence under the Act except with the consent, in writing, of a Secretary of State.

PART II.

I. GENERAL RULES.

General Rules.

The General Rules, of which we now proceed to give some description, apply to every mine. Not only is every person who contravenes or does not comply with any of these General Rules guilty of an offence against the Act, but, as already stated in the commencement of these remarks, this contravention or non-compliance, against whomsoever proved, is to be deemed the commission of an offence by both the owner, the agent, and the manager, each of whom is to be guilty unless he proves that he has taken all reasonable means to prevent such contravention or non-compliance by publishing these rules, and to the best of his power enforcing them as regulations for the working of the mine.

The present statute has added eight to the thirty-one General Rules hitherto in force. They are extended in their application to all parties about the mine.

The introductory paragraph declares that they shall be observed in every mine, "so far as is "reasonably practicable."

These rules are so important, and depend so much upon the exact language used for the

General Rules. adequate construction of each regulation, that the rules themselves should be consulted when occasion arises.

The following observations must therefore be taken as merely introductory to the study of their provisions.

Ventilation of mine. 1. The first part of the 1st general rule is practically the same as under the former Act. An adequate amount of ventilation is to be constantly produced in every mine to dilute the noxious gases and to keep "the working places "of the shafts, levels, stables, and workings of "the mine, and the travelling roads to and from "those working places," in a fit state for the persons employed to work and pass within them.

It has been decided, under the former rule to this effect, that sufficient ventilation is to be constantly produced, and that it is not to be suspended during temporary cessations of work, as, for example, at nights, or on Sundays and other proper days of rest, for during all these times the mine is to be considered as continuing at work, and that so much of the mine must be kept ventilated as is necessary for safety.

There is now an addition to the rule, that, in the case of mines required to be under the control of a certificated manager, the quantity of air in the respective splits or currents must be measured once at least in every month, and entered in a book to be kept for the purpose at the mine.

We have prepared a form of book for this purpose. It will be found in the Appendix, p. 260.

2. The 2nd general rule is new, and provides that, where a fire is used for ventilation in

any mine newly opened after the passing of the Act, the return air, unless it be so diluted as not to be inflammable, must be carried off, clear of the fire, by a dumbdrift or airway. General Rules. Ventilation of mine.

3. The 3rd general rule is also new. It provides that where a mechanical contrivance for ventilation is introduced after the 1st of January 1888, it must be in such a position, and placed under such conditions, as will tend to insure its being uninjured by an explosion.

4. The 4th general rule takes the place of the old general rules 2 and 3. Stations and inspection.

It provides that a station or stations must be appointed at the entrance to the mine, or to different parts of the mine, as the case may require; and the following provisions are enacted:—

(i.) There is to be an inspection, before commencing work, by a competent person appointed for the purpose, not being a contractor for getting minerals in the mine, within such time *immediately before the commencement of each shift* as shall be fixed by the special rules, of every part of the mine, beyond the station, in which workmen are to work or pass during the shift, to ascertain the condition thereof, so far as the presence of gas, ventilation, roof and sides, and general safety are concerned.

No workman is to pass the station until the part beyond has been stated to be safe.

The former general rule on this subject applied only to ventilation. Now the inspection is to extend, in addition, to gas, roof and sides, and general safety.

If inflammable gas has been found within the

General Rules. Stations and inspection.

preceding twelve months, the inspection is to be made with a locked safety lamp.

A full report as to noxious or inflammable gas, defects in roof or sides, or other sources of danger is to be recorded without delay in a book to be kept at the mine, which is to be accessible to the workmen, and is to be in the handwriting of, and signed by, the person who made the inspection.

It will be observed that this report is much more detailed than that required before. The provision that the report book is to be kept at the mine, accessible to the workmen, and that it is to be both written and signed by the person making the inspection, is new.

By the 37th general rule all report books required by the General Rules are to be provided by the owner, agent, or manager, and such books, or a correct copy thereof, are to be kept at the office of the mine, where, as will be seen on reference to the rule itself, they may be inspected and copied.

Two or more shifts succeeding one another without any interval are to be deemed one shift, and in that case only one inspection, before commencing work, is requisite.

(ii.) The second part of the rule relates to inspections during shifts. It provides for a similar inspection being made in the course of each shift, which need not be recorded in a book, but, in the case of a mine worked continuously throughout the twenty-four hours by a succession of shifts, the report of one of such inspections is to be recorded. See forms in Appendix, pp. 262–265.

The recorded inspections made obligatory by

this rule are referred to in sub-head (*g*) of general rule 12, relating to the use of explosives below ground. General Rules.

5. The 5th general rule is in substitution for the former rule No. 29. Inspection of machinery, &c.

It provides for the due inspection of the machinery, &c., above and below ground. A competent person or persons appointed for the purpose is once at least in every twenty-four hours to examine the state of the external parts of the machinery, the state of the guides and conductors in the shafts, and the state of the head-gear, ropes, chains, and other similar appliances of the mine which are in actual use both above and below ground, and is once at least in every week to examine the state of the shafts by which persons ascend or descend, and to make a true report of the result of every such examination.

Every report is to be recorded without delay in a book to be kept at the mine for the purpose, and is to be signed by the person making the inspection.

It will be observed that the guides and conductors have now to be examined and reported upon *daily*, instead of once a week as formerly.

A form of report book under this rule will be found in the Appendix, pp. 266, 267.

6. The 6th rule is the old general rule 4, and provides that all entrances to any place not in actual *use* or course of working and extension are to be properly fenced across their whole width, so as to prevent persons inadvertently entering them. This must be done in every case, whether the places not in actual "use" Fencing entrances.

General Rules. (which word is new) or course of working are suspected to contain dangerous gases or not.

Withdrawal of workmen in case of danger.

7. General rule No. 7 is substantially the same as the former rule No. 6, and provides for the withdrawal of every workman from a mine, or any part thereof, in which *inflammable* gases are found to prevail to a dangerous extent, or which from any cause whatever is dangerous. No person is to be re-admitted into a mine or part so found dangerous, except in so far as is necessary to ascertain the cause of or to remove the danger, or until it is stated not to be dangerous.

A competent person is to be appointed to inspect the mine or part so found dangerous, and, if the danger arises from inflammable gas, he must use a locked safety lamp. In every case he is to make and sign a true report of the condition of the mine or part in a book to be kept at the mine for the purpose.

A form of report book will be found in the Appendix, p. 268.

Safety lamps.

8. This is a new rule. It provides that no lamp or light other than a locked safety lamp is to be allowed or used in any place in a mine in which there is likely to be any such quantity of inflammable gas as to render the use of naked lights dangerous, or in any working approaching near such a place. When it is necessary to work with safety lamps in any part of a ventilating district (which means such part of a seam as has an independent intake commencing from a main intake air course, and an independent return airway terminating at a main return air course), naked lights are not to be used in another part

of the same ventilating district situated between the place where such lamps are being used and the return airway. General Rules.

9. The 9th general rule is new. It provides that safety lamps must be so constructed that they may be safely carried against the air-current ordinarily prevailing in the part of the mine in which they are for the time being in use, even though such current should be inflammable. Construction of safety lamps.

10. General rule No. 10 is an extension of the former rule 7. It provides that a competent person appointed for the purpose must, either at the surface or at the appointed lamp station, examine every lamp immediately before it is taken into the workings for use, and ascertain it to be in safe working order and securely locked; and such lamps are not to be used until this has been done. Examination of safety lamps.

A safety lamp is not to be unlocked except at the appointed lamp station or for firing a shot, and no person, unless he has been appointed either for examining lamps or firing shots, is to have in his possession any contrivance for opening the lock of any safety lamp; and no person is to be possessed of any lucifer match or apparatus of any kind for striking a light except within a completely closed chamber attached to the fuse of the shot.

11. General rule 11 is new, and provides that the position of the lamp stations for lighting or re-lighting safety lamps is not to be in the return air. Lamp stations.

This may necessitate some alteration of lamp stations.

12. This is a new rule in lieu of the old

General Rules. Use of explosives below ground.

general rule 8 ("Gunpowder and Blasting"). As it will require most careful attention, we notice its provisions at length.

No explosive substance is to be stored in a mine. It must only be taken into the mine in cartridges in a *secure* case or canister containing not more than *five* pounds.

A Secretary of State has power, on application, to exempt any mine from so much of the rule as forbids taking an explosive substance into the mine except in cartridges.

A workman is not to have in use at one time in any one place more than one case or canister.

In the process of charging or stemming for blasting, a person is not to use, or have in his possession, any iron or steel pricker, scraper, charger, tamping rod, or stemmer, nor must coal or coal-dust be used for tamping. "Scraper" and "charger" are new, and also the prohibition of coal-dust for tamping.

No explosive is to be forcibly pressed into a hole of insufficient size, or to be unrammed, and no hole is to be bored for a charge at a distance of less than 6 inches from any hole where the charge has missed fire. This is more stringent than the former rule.

In any place in which a locked safety lamp is for the time being required, or which is dry and dusty, no shot is to be fired except by, or under the direction of, a competent person appointed for the purpose, and such person is not to fire a shot or allow it to be fired until he has examined both the place itself and all contiguous accessible places of the same seam within a radius of 20 yards, and found such place safe for firing.

General Rules. Use of explosives below ground.

If in any mine, at either of the four inspections under rule 4 recorded last before a shot is to be fired, inflammable gas has been reported to be present in the ventilating district (as already defined), a shot is not to be fired unless (1) a competent person has examined the place, and has found that such gas has been cleared away, and that there is not at or near the place sufficient gas issuing or accumulated to render it unsafe to fire the shot; or (2) unless the explosive employed is so used with water or other contrivance as to prevent it from inflaming gas, or is of such a nature that it cannot inflame gas.

It will be observed that, under this part of the rule, it will be necessary for the competent person appointed to fire the shot to examine the last four *recorded* inspections of the mine before firing a shot, to see whether any inflammable gas is there recorded, and afterwards to act in strict accordance with the rule.

If the place where a shot is to be fired is dry and dusty, then the shot is not to be fired unless either (1) the place of firing and all contiguous accessible places within a radius of 20 yards are in a wet state from thorough watering, or other treatment equivalent to watering, in all parts where dust is lodged, whether roof, floor, or sides; or (2), where watering would injure the roof or floor, unless the explosive is so used with water or other contrivance as to prevent it from inflaming gas or dust, or is of such a nature that it cannot do so.

If such dry and dusty place is part of, or contiguous to, a main haulage road (meaning a road which has been, or for the time being is,

General Rules. Use of explosives below ground.

in use for moving trams by steam or other mechanical power) shewing dust adhering to the roof and sides, no shot is to be fired there unless (1) both the conditions last mentioned have been observed, or (2) unless such one of them as may be applicable to the particular place has been observed, and, moreover, all workmen have been removed from the seam in which the shot is to be fired, and from all seams communicating with the shaft on the same level, except the men engaged in firing the shot, and such other persons, not exceeding ten, as are necessarily employed in attending to the ventilating furnaces, steam boilers, engines, machinery, winding apparatus, signals, or horses, or in inspecting the mine.

Where a seam of a mine is not divided into separate ventilating districts as defined, the word "seam" is to be substituted for the words "ventilating district."

So much of this rule as requires the explosive substance taken into the mine to be in cartridges, and the provisions relating to a dry and dusty place, and as to watering, removal of workmen, &c., are not to apply to seams of clay or stratified ironstone which are not worked in connection with any coal seam, and which contain no coal in the working.

It will be observed that the old test of "a "blue cap on the flame of the safety lamp" has been abolished.

In addition to these regulations as to firing shots, it will be necessary also to refer to the special rules in force at the particular mine where the explosive is to be used, bearing in mind that the special rules are of the same force

as the General Rules. We are aware of one intended code of special rules at least where the regulations are made more stringent under two heads. First of all, the recorded inspections are to be those of the *morning* fireman's report; and in all cases of shot-firing *in main return airways*, in dusty mines, the provisions of sub-head (i.) as to main haulage roads are to be observed; and there are also other special rules with regard to gunpowder, explosives, blasting, and shot-lighters.

General Rules. Use of explosives below ground.

13. This rule, with the addition of the words in italics, is the same as the former rule No. 9.

Water and boreholes.

It provides that the working approaching a place likely to contain a dangerous accumulation of water is not, *at any point within* 40 *yards of that place*, to exceed 8 feet in width, and there must be constantly kept, at a sufficient distance not less than 5 yards in advance, at least one borehole near the centre of the working, and sufficient flank boreholes on each side.

14. This rule provides that there is to be some proper means of communicating distinct and definite signals in every underground plane on which persons travel, which is self-acting or worked by an engine, windlass, or gin (if exceeding 30 yards in length), between the stopping-places and the ends of the plane, and in every case sufficient manholes for places of refuge must be provided at intervals of not more than 20 yards, or if there is not room for a person to stand between the side of a tub and the side of the plane, then (unless the tubs are moved by an endless chain or rope) at intervals of not more than 10 yards.

Signalling and manholes for engine roads.

General Rules. The latter portion is new.

Manholes for other travelling roads. 15. The 15th rule relates to underground travelling roads where the load is drawn by a horse or other animal. They are to have sufficient manholes at intervals of not more than 50 yards, or places of refuge of sufficient length, and at least 3 feet in width, between the waggons running on the road and the side of such road.

There is a new provision added that there must be at least two proper travelling ways into every steam-engine room and boiler gallery.

Manholes to be kept clear. 16. Every manhole and place of refuge is to be constantly kept clear, and no person is to place anything therein.

Dimensions of travelling roads. 17. This new rule provides that every travelling road on which a horse or other draught animal is used under ground is to be of sufficient dimensions to allow the animal to pass without rubbing against the roof or timbering.

Fencing of old shafts. 18. The top of every unused or air shaft is to be, and be kept, securely fenced.

Fencing entrances. 19. The top and all entrances between the top and bottom, including the sump, if any, of every working, ventilating, or pumping shaft are to be properly fenced, though, if proper precautions are used, the fence may be temporarily removed for repairs and other operations.

"Ventilating shaft" and "sump" are newly introduced.

Casing shafts. 20. Where the natural strata are not safe, every working or pumping shaft is to be securely cased, lined, or otherwise made secure.

Securing roofs and sides. 21. The roof and sides of every travelling road and working place are to be made secure, and, until they are so made secure, no

person is to travel or work in them, unless appointed for the purpose of exploring or repairing. General Rules.

22. This is a new rule. It provides that, where the timbering of the working places is done by the workmen employed therein, suitable timber is to be provided at the working place, gate end, pass bye, siding, or other similar place in the mine convenient to the workmen, and the distance between the sprags or holing props where required is not to exceed 6 feet or such less distance as may be ordered by the owner, agent, or manager. Timbering.

23. Where there is a downcast and a furnace shaft to the same seam, both having apparatus in use for raising and lowering persons, every person employed in the mine is to have the option of using the downcast shaft. Option of workmen of using downcast shaft.

24. A competent male person, not less than twenty-two years of age, is to be appointed for the purpose of working the machinery employed in lowering and raising persons, and he is to be in attendance for that purpose during the whole time that any person is below ground in the mine. Attendance of engineman.

It will be remembered that in the old rule (No. 18) the limit was eighteen years of age. It is provided (section 82) that competent male persons above the age of eighteen, lawfully employed for this purpose before the 1st of January 1888, may continue to be so employed.

The second part of the rule re-enacts the provision contained in section 14 of the old Act, and provides that where any shaft, plane, or level is used for the purpose of communication from one part of a mine to another, through

General Rules. which persons are taken by means of any engine, windlass, or gin, worked by steam or any mechanical power, or by an animal, or by manual labour, the person in charge of the engine, &c., or any part of the machinery, ropes, chains, or tackle connected therewith, must be a competent male person not less than eighteen years of age; and where the machinery is worked by an animal, the person under whose direction the driver of the animal acts is to be deemed the person in charge of the machinery.

Signalling for working shafts. 25. Every working shaft exceeding 50 yards in depth through which either minerals or persons are drawn must, if not exempted in writing by the inspector, be provided with guides, and must have some proper means of communicating distinct and definite signals from the top and bottom of the shaft and every entrance between them.

Winding. 26. General rule 26 is new. It provides that if in any mine the winding apparatus is not provided with some automatic contrivance to prevent over-winding, then the cage, when men are being raised, is not, after it has reached a point in the shaft to be fixed by the special rules, to be wound up at a speed exceeding three miles an hour.

It will be necessary at every mine to have a special rule in accordance with this new regulation.

Cover overhead. 27. A sufficient cover is to be used for every cage or tub employed in lowering or raising persons in any working shaft, except where the cage or tub is worked by a windlass, or where persons are at work in the shaft, or where the inspector gives a written exemption.

28. A single linked chain is not to be used for lowering or raising persons in any working shaft or plane. General Rules. Chains.

This regulation does not apply to the short coupling chain attached to the cage or tub.

29. There is to be on every winding drum used for lowering or raising persons, such flanges or horns, and if the drum is conical, such other appliances, as may prevent the rope from slipping. Rope and drum.

30. An adequate break or breaks, and a proper indicator (in addition to any mark on the rope) shewing the position of the cage or tub in the shaft, are to be attached to every machine used for lowering or raising persons, and worked by steam, water, or mechanical power. It is further provided that, if the drum is not on the crank shaft, there must be an adequate break on the drum shaft. Break and indicator.

31. Every flywheel and all exposed and dangerous parts of the machinery in or about the mine are to be, and be kept, securely fenced. Flywheel and exposed machinery.

32. Each steam boiler, whether separate or one of a range, is to have a proper safety valve, and also a proper steam gauge and water gauge to shew respectively the pressure of steam and the height of water in each boiler. Safety valves and gauges for boilers.

"Whether separate or one of a range" are words newly introduced.

33. A barometer and thermometer are to be placed above ground in a conspicuous position near the entrance to the mine. Under the former rule this had only to be done after dangerous gas had been found in any mine. Barometer and thermometer.

34. This is a new rule. Where persons are em- Ambulances and stretchers.

General Rules.

ployed under ground, ambulances or stretchers, with splints and bandages, are to be kept at the mine ready for immediate use in case of accident.

Wilful damage.

35. This rule provides against wilful damage to, or unauthorized interference with, any appliance or thing provided in the mine in compliance with the Act, or with any manhole or place of refuge.

"Manhole or place of refuge" are newly introduced.

Observance of directions.

36. This rule provides for the observance of all proper directions, with respect to working, given for carrying out the Act or the special rules in force.

Books and copies.

37. This new rule requires that the books mentioned in the rules are to be provided by the owner, agent, or manager, and that the books, or a correct copy of them, are to be kept at the office at the mine, and that they may be inspected, and copies or extracts taken, at all reasonable times by any inspector, or any person employed in the mine, or any one having the written authority of any such inspector or person; but no such book or copy need be kept for more than twelve months after it has ceased to be used for entries therein under the Act.

Any report required by the Act to be recorded in a book may be partly in print (including lithograph) and partly in writing.

Inspection on behalf of workmen.

38. This rule provides for the inspection of the mine on behalf of the persons employed, who may from time to time appoint two of their number, *or any two persons, not being mining engineers, who are practical working miners,* to inspect the mine at their own cost; and the per-

sons appointed are to be allowed, once a month, to go to every part of the mine, and to inspect the shafts, levels, planes, working places, return airways, ventilating apparatus, old workings, and machinery, and every facility for the purpose of the inspection is to be afforded them. They are forthwith to make a true report of the result of their inspection, which is to be recorded in a book to be kept at the mine for the purpose, and is to be signed by the persons who made the inspection, *and if the report state the existence or apprehended existence of any danger, a true copy of the report is forthwith to be sent to the inspector by the owner, agent, or manager.* General Rules.

The owner, agent, or manager may, if he think fit, accompany the party inspecting, either by himself or his officers.

See form of report book in Appendix, p. 270.

39. The last general rule is new, and provides that no person not employed on the 1st of January 1888 as a coal or ironstone getter is to be allowed to work alone, as such, in the face of the workings until he has had two years' experience of such work under the supervision of skilled workmen, or unless he shall have had two years' previous employment in or about the face of the workings. Qualification of coal-getter.

It is provided by section 64 that if a person is employed under the belief in good faith that he has had such experience, or has been so previously employed, the owner, agent, or manager, and employer are to be exempted from any penalty, and the person making the misrepresentation is to be guilty of an offence against the Act. Additional inquiries will now have to Misrepresentation.

General Rules. be made when men are engaged, in order to carry out this rule.

Such are the General Rules which are now to govern the management of every mine in the United Kingdom to which the Act applies.

They cannot be too carefully studied by every person whom they concern.

Though many of the new requirements are such as a regard for the safe working of their mines has induced numerous owners to adopt already, there are some which, being entirely a creation of the statute, provision must be made to meet.

It is difficult to define what will be required in each individual case, but we have attempted here, and in the notes attached to the statute itself, to render such practical assistance as lies in our power.

II. SPECIAL RULES.

Special Rules. In addition to the General Rules, certain special rules are also to be established in every mine. These special rules are expressed to be for the conduct and guidance of the persons acting in the management of the mine or employed in or about it. They are to be such as, under the particular state and circumstances of the mine, may appear best calculated to prevent dangerous accidents, and to provide for the safety, *convenience*, and proper discipline of the persons employed in or about the mine. They are to be established in the manner hereafter explained, and, when established, are to be signed *in duplicate* by the inspector of the

district, and they are to be observed in the mine *and in every extension thereof.* They are then to have the same force as if they had been expressly enacted in the statute. We shall treat of their mode of publication in a future paragraph. In case of their breach by any person whomsoever who is bound to observe them, the owner, agent, and manager of the mine is each to be under the same liability as for breach of General Rules. Special Rules.

The special rules which have been established in any mine before the commencement of the present Act—*i.e.*, the 1st of January 1888—are still to continue in force as if they had been established under this statute, until superseded by new rules. It will be noticed that the special rules are now to provide "for the safety, "*convenience*, and proper discipline of the per- "sons employed in or about the mine," and these rules are to be framed and transmitted to the inspector within three months from the commencement of the Act.

With regard to the establishment of new special rules, it is enacted that the owner, agent, or manager of every mine is to frame and transmit to the inspector of the district, for approval by the Secretary of State, special rules for the mine, and this must be done (as named above) within three months after the commencement of the Act, or within three months after the commencement of any working for opening a new mine or renewing an old one, if the latter be subsequent to the commencement of the Act. The proposed special rules (together with a printed notice that any objection to them, on the ground of anything New special rules.

New special rules.

contained in or omitted from them, may be sent by any of the persons employed in the mine to the inspector of the district, at his address, stated in the notice) are, during not less than two weeks before the rules are transmitted to the inspector, to be posted up, in legible letters, in some conspicuous place at or near the mine, where they may be conveniently read by the persons employed. The name of the mine, and the name and address of the inspector of the district, and the name of the owner or agent and the manager of the mine must be appended to them, and a certificate that the rules and notices have been posted up as required is to be sent to the inspector, with two copies of the rules, and signed by the person sending them. If the rules are not objected to by the Secretary of State within forty days after their receipt by the inspector, they are to be established for the mine in question without further formality.

The Secretary of State may, within forty days after the rules are received by the inspector, object to them, or any of them, on the ground that they do not sufficiently provide for the prevention of dangerous accidents in the mine, or for the safety or convenience of the persons employed in or about it, or that they are unreasonable, and he may propose to the owner or manager, in writing, any modification in the rules, by way either of omission, alteration, substitution, or addition. Should he do so, the rules so modified are to be the special rules, unless the owner, agent, or manager object, in writing, within twenty days after the receipt of the Secretary of State's modifications. If he

object, the matter is to be settled by arbitration under the Act. Special Rules.

Special rules may be made, altered, or amended either by the owner, agent, or manager of a mine, or by the Secretary of State, at any time, by process similar to that required for their establishment.

For the purpose of making known the special rules and the provisions of the Act, an Abstract of the Act is to be supplied by an inspector on the application of the owner, agent, or manager of the mine, and this Abstract, together with an entire copy of the special rules, is to be published as follows; and, since it is one of the requisites for freeing the owner, agent, or manager from responsibility for their breach by another person, their due publication ought to be an object of strict attention:—

The owner, agent, or manager of the mine is to cause the Abstract, and a copy of the rules, with the name of the mine, and the name and address of the inspector, and the name of the owner or agent and of the manager, to be posted up, as already described in the directions for their establishment, in some conspicuous place at or near the mine, and is to cause them to be renewed as often as they become defaced, obliterated, or destroyed. Publication.

The official form of the Abstract furnished by the inspectors, which has to be posted at the mine, as supplied, in addition to the particulars already named and required by the Act, has spaces for the situation of the mine and for the name of the under-manager.

In the communication from the Home Office

Special Rules.

to the Mining Association of Great Britain, already referred to, it is stated to be desirable that the special rules should provide for formal notice being given to the inspector of the person who is to be under-manager of the mine.

The owner, agent, or manager is to supply a printed copy of the Abstract and the special rules, gratis, to each person employed in or about the mine who applies for a copy at the pay office, and the copy of the Abstract of the Act so supplied must be a correct copy of the official Abstract furnished by the inspector.

The special rules are to be kept distinct from any other rules depending only on the contract between the employer and the employed.

There are provisions for punishing the contravention of any of these requirements, as well as for pulling down or defacing any rules or notices posted up under the Act.

The inspector is to certify a copy of the special rules which is shewn to his satisfaction to be a true copy, when required, and the copy so certified may be received as evidence of the rules and their due establishment.

With respect generally to the establishment of special rules, it is also stated, in the communication from the Home Office, already mentioned, that "mines of a different character will, to "a certain extent, necessarily require different "special rules; but, in the absence of any reason "to the contrary, it is convenient that mines of "the same character in the same district should "have the same special rules. In every case, "however, the process prescribed by the statute "has to be followed. Under it, the initiative

" rests with the owner of the individual mine Special Rules.
" who submits to the Secretary of State the rules
" that appear to him suitable to the particular
" state of his mine, and the Secretary of State
" would have regard to the same circumstances
" in proposing any modification."

PART III.

SUPPLEMENTAL.

LEGAL PROCEEDINGS.

Every person employed in or about a mine who is guilty of any act or omission which would be an offence on the part of the owner, agent, or manager is to be considered guilty of an offence. Offences and penalties.

Any owner, agent, manager, or under-manager who is guilty of an offence against the Act for which a penalty is not expressly prescribed is to be liable to a fine not exceeding £20. Any other person thus guilty is liable to a fine not exceeding £20 for each offence. If an inspector has given written notice of any such offence, such person is also liable to a further fine not exceeding £1 for every day after such notice that the offence continues.

When an owner, agent, manager, or under-manager of a mine, or any person employed thereat, is guilty of an offence against the Act which, in the opinion of the Court that tries the

Offences, &c.

case, was reasonably calculated to endanger the safety of the persons employed in or about the mine, or to cause any of them serious personal injury, or to occasion a serious accident, or that it was committed wilfully by the personal act, personal default, or personal negligence of the person accused, and, further, that a fine will not meet the circumstances of the case, it may sentence the accused to three months' imprisonment with or without hard labour.

Summary proceedings for offences, fines, &c.

All offences under the Act not declared to be misdemeanours, and all fines, may be prosecuted and recovered in manner directed by the Summary Jurisdiction Acts before a Court of summary jurisdiction.

Check-weigher.

It is specially enacted that proceedings for the removal of a check-weigher are to be deemed a matter within the authority of a Court of summary jurisdiction, and one upon which it may make the necessary orders.

Limitation of proceedings.

In every part of the United Kingdom any complaint or information under the Act must (save as otherwise expressly provided by the Act—referring to the sending of plans of abandoned mines: section 38) be made or laid within three months from the time when the matter complained of arose, and a person charged with any offence under the Act may, if he think fit, be sworn and examined as an ordinary witness in the case, and, if required by either party, the Court is to cause minutes of the evidence to be taken and preserved.

Appeal to quarter sessions.

In case of the infliction of imprisonment, or a fine amounting to one-half the maximum fine, the person aggrieved may appeal to a Court of

quarter sessions in manner provided by the Summary Jurisdiction Acts.

Liability for misrepresentation as to age, &c.

Where a boy or girl has been employed on the representation of a parent or guardian that he or she was of the proper age to be employed, and under the belief in good faith that such was the case, or that a person has worked alone as a coal or ironstone getter on his representation that he has had the requisite experience, and in the belief in good faith that such was the case, the owner, agent, or manager of the mine, and employer, are to be exempted from any penalty, and the parent or guardian, or the person who had so worked alone, is for the misrepresentation to be deemed guilty of an offence.

Prosecution of owners, &c

No prosecution under the Act before a Court of summary jurisdiction is to be instituted against the owner, agent, manager, or undermanager of a mine for any offence not committed personally by them, except by an inspector, or with the consent, in writing, of a Secretary of State. In the case of any offence of which the owner, agent, manager, or undermanager is not guilty, if he proves that he has taken all reasonable means to prevent its commission, an inspector is not to institute any prosecution against him if satisfied that the person charged has taken such reasonable means with regard to the matter as the Act requires.

Coroner.

No prosecution is to be instituted against a coroner for any offence under the Act except with the written consent of a Secretary of State.

Proceedings against workmen.

A new provision of the Act, already referred to, requires, in the case of proceedings against

persons employed in or about a mine for offences under the Act, that the result of the case shall be reported to the inspector within twenty-one days afterwards.

Summary proceedings in Scotland.

Full powers are given for adapting the Act to Scotland as to summary proceedings for offences.

Persons may be punished under other Acts.

It is provided that nothing in the Act is to prevent any person from being indicted or liable under any other Act, or otherwise to any other or higher penalty or punishment than is provided for any offence by the Act under consideration, so, however, that no person is punished twice for the same offence; and the Court is to have power to adjourn the case before it to enable proceedings to be taken under any other Act.

Exclusion of certain magistrates.

The owner, agent, or manager of any mine, or a miner or miner's agent, or the father, son, or brother, or father-in-law, son-in-law, or brother-in-law, of any owner, agent, or manager, or of a miner or miner's agent, or a person who is a director of a company being the owner of a mine, is not to act as a Court, or as a member of a Court, of summary jurisdiction in respect of any offence under the Act, except with the consent of both parties to the case. It will be remembered that the term "owner" does not include a person who merely receives a royalty, rent, or fine from a mine, or a lessor, or a mere owner of the soil, and not interested in the minerals. The disqualification, however, is wider than in the repealed Act.

Application of fines.

A fine imposed for neglecting to send notice of any explosion or accident, or for any offence

which has occasioned loss of life or personal injury, may be directed by a Secretary of State to be paid to, or distributed among, the persons injured and the relatives of any persons killed, or among some of them: provided that such persons did not, in his opinion, occasion or contribute to the explosion or accident, and were not parties to committing the offence. But the fact of this payment or distribution is not in any way to affect, or to be receivable as evidence in, any legal proceedings relative to, or consequential on, the explosion, accident, or offence. Fines.

In other cases all fines recovered in England or Scotland go to the Consolidated Fund, and in Ireland they are to be applied as directed by "The Fines Act (Ireland), 1851," and any Act amending the same.

MISCELLANEOUS.

Most of the provisions under this head, which complete the Act, have been already noticed, but the following remain for observation:—

Any order of, or exemption granted by, a Secretary of State may be made, and from time to time revoked or altered by him, either conditionally or otherwise. Secretary of State may make and revoke orders.

In the application of the Act to Scotland the terms are made to apply to the legal procedure in that part of the kingdom, and sections 41 and 16 of the Public Health (Scotland) Act, 1867, are substituted for sections 38 and 91 of the Public Health Act, 1875, which were referred to in the repealed Act, and the Application of Act to Scotland.

Miscellaneous.

term "public elementary school" is there to be taken to mean a State-aided school.

It is further provided that nothing in the Act is to affect any provision in the Education (Scotland) Acts, 1872 to 1883.

Application of Act to Ireland.

In the application of the Act to Ireland the provisions are adapted to the police administration of Ireland, whilst sections 48 and 107 of the Public Health (Ireland) Act, 1878, are substituted for sections 38 and 91 of the Public Health Act, 1875, referred to in the repealed Act.

Existing inspectors and Examination Boards continued.

Existing inspectors and Boards for appointing examiners are continued.

Continuance of existing orders, certificates, and registers.

All orders made by a Secretary of State under the Acts repealed by the present Act—viz., the Coal Mines Regulation Act, 1872, the Stratified Ironstone Mines (Gunpowder) Act, 1881, and the Coal Mines Act, 1886—are to be deemed to have been made under the present Act. All certificates of competency or of service granted under any of those Acts are to be deemed first-class certificates under the present Act, and all registers under such repealed Acts are to be deemed to be registers, or parts of registers, kept in pursuance of the present Act.

Certificates of service as under-managers.

The provisions on this subject have already been fully noticed under the head "Certificated "Managers."

Repealed Acts.

It is provided, in conclusion, that any enactment or document referring to any of the repealed Acts is to be construed to refer to the present Act, and to the corresponding enactments thereof. The repeal of such Acts is not to affect any exemption granted or other thing

done before the 1st of January 1888; and all offences committed, penalties incurred, and proceedings commenced before the date named are to be punished, recovered, continued, and completed in the same manner as if the present Act had not been passed.

TRUCK ACTS, 1831 AND 1887.

DIGEST OF THE LAW RELATING TO TRUCK.

50 & 51 Vict. c. 46.

By the Truck Amendment Act (16th of September), 1887, the law relating to truck is amended and extended.

1 & 2 Will. IV. c. 37.

It provides that the former Truck Act, 1 & 2 Will. IV. c. 37 (referred to as the principal Act), may be cited as the Truck Act, 1831, and that such Act and the amending Act may be cited together as the Truck Acts, 1831 and 1887, and that they are to be construed together as one Act.

"Workman."

The provisions of the Truck Acts, 1831 and 1887, are to extend to, and include, "any "workman," meaning any person who, being a labourer, servant in husbandry, journeyman, artificer, handicraftsman, *miner*, or otherwise engaged in manual labour, whether under the age of twenty-one years or above that age, has entered into, or works under, a contract with an employer, whether the contract be made before or after the passing of "The Employers and Workmen "Act (1st of September), 1875," be expressed or implied, oral or in writing, and be a contract of service or a contract personally to execute any work or labour; but it does not include a domestic or menial servant.

"Contract" is defined by the principal Act (section 25) to mean any agreement, understanding, device, contrivance, collusion, or arrangement whatsoever on the subject of wages, whether written or oral, whether direct or indirect, to which the employer and workman are parties or are assenting, or by which they are mutually bound to each other, or whereby either of them shall have endeavoured to impose an obligation on the other of them. "Contract."

In all contracts for the hiring of, or for the performance by any workman of, any labour, the wages of such workman are to be made payable in the current coin of the realm, and not otherwise, and if in any such contract the whole or any part of such wages be made payable in any manner other than in the current coin, such contract is void. Wages to be made payable in current coin.

Any contract between any workman and his employer in which any provision is made, directly or indirectly, respecting the place where, or the manner in which, or the person or persons with whom the whole or any part of the wages due, or to become due, to any such workman is to be laid out or expended is to be void, and no employer is, directly or indirectly, by himself or his agent, to impose as a condition, expressed or implied, in or for the employment of any workman, any terms as to the place at which, or the manner in which, or the person with whom any wages or portion of wages paid to the workman are or is to be expended, and no employer is, by himself or his agent, to dismiss any workman from his employment on account of the place at which, or the manner in which, or the No contracts with workmen as to spending at any particular shop.

person with whom any wages or portion of wages paid by the employer to such workman are or is expended, or fail to be expended.

All wages must be paid in coin.

The entire amount of the wages earned by, or payable to, any workman in respect of any labour done by him is to be actually paid to such workman in current coin, and not otherwise, and every payment made to any such workman by his employer of or in respect of such wages by the delivering to him of goods, or otherwise than in such current coin, is void.

Workmen may recover wages.

Power is given to a workman to recover from his employer, in the manner provided by law for the recovery of servants' wages, or by any other lawful ways and means, the whole or so much of the wages earned by the workman as shall not have been actually paid to him by his employer in current coin.

No set-off allowed for goods.

In any proceedings against an employer for the recovery of money due to a workman as wages, the employer is not to be allowed to set off, or to claim any reduction of the workman's demand by reason or in respect of, any goods received by the workman on account of his wages or in reward for his labour, or by reason or in respect of any goods supplied to such workman at any shop or warehouse kept by or belonging to such employer, or in the profits of which such employer has any share or interest; nor can the employer set off or counter-claim in respect of any goods supplied to a workman by any person under any order or direction of the employer, or any agent of the employer.

No action for goods supplied on

An employer is not to have, or be entitled to maintain, any suit or action against any

workman for or in respect of goods supplied to any such workman by any such employer, whilst in his employment, as or on account of his wages or reward for his labour, or for or in respect of any goods supplied to such workman at any shop or warehouse kept by or belonging to such employer, or in the profits of which the employer has any share or interest; and the employer or any agent of the employer, or any person supplying goods to the workman under any order or direction of such employer or agent, is not entitled to sue the workman in respect of any goods supplied by such employer or agent, or under such order or direction. This, however, is not to apply to a number of exemptions afterwards pointed out. account of wages.

If any workman or his wife, widow, or child under twenty-one becomes chargeable to any parish or place, and if within three months previously such workman has earned or become entitled to receive any wages, for any labour done by him, which have not been paid to him in current coin, the guardians of the union in England and the inspectors of the poor in Scotland in such parish or place may recover from the employer of such workman in whose service such labour was done the full amount of wages so unpaid, and the wages so recovered may be applied in reimbursing all the costs and charges incurred in respect of the person or persons becoming chargeable, any surplus being paid to them. As to wages in case of a workman, his wife or children, being chargeable to parish.

Wages may be paid either wholly or in part in Bank of England notes, or in the notes of banks duly licensed to issue the same, or in Wages may be paid in notes.

drafts or orders for the payment of money to the bearer on demand, drawn upon duly licensed bankers within 15 miles of the place where such drafts or orders are payable, if, as to the latter, the workman freely consents to receive such drafts or orders.

Exemptions:—Servant in husbandry.

Nothing in the principal Act or in the amending Act is to render illegal a contract with a servant in husbandry for giving him food, drink (not being intoxicating), a cottage, or other allowance or privileges, in addition to money wages, as a remuneration for his services.

On the 8th of March 1888, the following question was asked in the House of Commons by Mr. Charles Acland, M.P.: "Whether the "Truck Amendment Act of last session renders "it illegal for farmers and other employers of "servants in husbandry to make a custom of "giving regularly to such servants in husbandry "intoxicating liquors as a remuneration for ser- "vices, in such a manner that such servants might "be led to expect, without any express contract, "that such liquor would be supplied to them "gratis all through hay or corn harvest, or at "any other season of the year?" to which the Attorney-General (Sir Richard Webster) replied: "It is in every case a question of fact whether "the giving of intoxicating liquors by farmers "and other employers of labour is expressly or "by implication a part of the contract of service. "No other general answer can be given to the "honourable and learned member's question."

Advance of wages—sec. 3, 1887.

Whenever, by agreement, custom, or otherwise, a workman is entitled to receive, in anticipation of the regular period of the payment of

his wages, an advance on account thereof, such advance is not to be withheld by the employer, nor is any deduction to be made in respect thereof on account of poundage, discount, or interest, or any similar charge.

Deduction for sharpening tools, &c.

No deduction is to be made from a workman's wages for sharpening or repairing tools, except by agreement "not forming part of the condition "of hiring."

Deductions allowable.

Nothing is to prevent any employer of any workman, or the agent of any such employer, from supplying, or contracting to supply, to any workman any medicine or medical attendance; or any fuel, or any materials, tools, or implements to be by such workman employed in his trade or occupation, if such workman be employed in *mining*; or any hay, corn, or other provender to be consumed by any horse or other beast of burden employed by any such workman in his trade and occupation; nor from demising to any workman the whole or any part of any tenement at any rent to be thereon reserved; nor from supplying, or contracting to supply, to any such workman any victuals dressed or prepared under the roof of any such employer, and there consumed by such workman; nor from making, or contracting to make, any stoppage or deduction from the wages of such workman in respect of any such rent, medicine, or medical attendance, or in respect of such fuel, materials, tools, implements, hay, corn, or provender, or of any such victuals dressed and prepared under the roof of any such employer, or for or in respect of any money advanced to such workman for any of the purposes mentioned. Such

Deductions.

stoppage or deduction must not exceed the real and true value of such fuel, materials, tools, implements, hay, corn, and provender, and is in no case to be made from the wages of any such workman unless the agreement or contract for such stoppage or deduction is in writing, and signed by such workman.

As we have before remarked, the Mines Act, section 14, allows in certain cases deductions from wages towards paying the miners' check-weighman.

Friendly societies and savings' banks.

Nothing is to prevent an employer from advancing to a workman any money to be by him contributed to any friendly society or bank for savings duly established according to law; nor from advancing any money for his relief in sickness, or for the education of any child or children of such workman; nor from deducting, or contracting to deduct, any sum or sums of money from the wages of such workman for the education of any child or children of such workman.

Before the passing of the Truck Amendment Act (16th of September), 1887, it was necessary that the agreement or contract for the last-mentioned deductions should be signed by the workman. Since the above date that is not necessary.

School fees.

Where any deduction is made for education, the workman, on sending his child to any State-inspected school (meaning any elementary school inspected under the direction of the Education Department in England or Scotland, or of the Board of National Education in Ireland) selected by him, is to be entitled to have the school fees

of his child at that school paid by the employer at the same rate, and to the same extent, as the other workmen from whose wages the like deduction is made by such employer. Deductions.

It will be remembered that by the Mines Act, section 10, a deduction not exceeding twopence per week, and not exceeding a twelfth part of the wages, may be made from the wages of any boy or girl under the circumstances in that section mentioned.

Where deductions are made from a workman's wages for the education of children, or in respect of medicine, medical attendance, or tools, once at least in every year the employer, by himself or his agent, is to make out a correct account of the receipts and expenditure in respect of such deductions, and submit the same to be audited by two auditors appointed by the workmen, and is to produce to the auditors all such books, vouchers, and documents, and to afford them all such other facilities, as may be required for such audit. Audit of deductions

Section 10 of the Amendment Act applies to articles under the value of £5 made by a person at his own house, or otherwise, by himself and the members of his own family, and need not be further noticed here. The reader is referred to the section if he should wish to see it. Articles under value of £5.

The Amendment Act, 1887, provides that for contravention of, or failure to comply with, the Act, any employer, or his agent, is to be guilty of an offence against the principal Act, and liable to the penalties imposed by section 9 of that Act, which are, for the first offence, a sum not exceeding, and for the second offence, any Offences and penalties.

Offences.

sum not exceeding £20 nor less than £10, and in case of a third offence he is to be deemed guilty of a misdemeanour, and, being convicted, is to be punished, by fine only, at the discretion of the Court, but the fines are not in any case to exceed £100.

Second and third offences.

The unrepealed portion of section 10 of the principal Act provides that no person is to be punished as for a second offence within ten days after a conviction for a first offence, but each separate offence within that time is to be punished by a separate penalty as if it were a first offence, and in like manner no person is to be convicted as for a third offence within ten days after conviction for a second offence. Other offences are to be inquired into and punished as for a third offence, and no person is to be prosecuted as for a second or third offence after the lapse of two years from the commission of the next preceding offence.

No person is to be liable for any offence committed by a co-partner in trade without his knowledge, privity, or consent, but a distress may be levied for an unpaid penalty on any goods belonging to any co-partnership concern or business.

Liability and offence for which employer is liable.

Where an offence for which an employer is liable to a penalty under the principal Act has, in fact, been committed by some agent or other person, the offender is to be liable to the same penalty as if he were the employer; and

Employer may exempt himself.

where an employer is charged with an offence against the principal or the amending Acts, he may, on laying an information, have any other person whom he charges as the actual offender

brought before the Court, and if, after the offence has been proved, the employer proves that he had used due diligence to enforce the execution of the Acts, and that the offence had been committed without his knowledge, consent, or connivance, the offender is to be summarily convicted of such offence, and the employer is to be exempt from any penalty.

Inspectors of factories and mines.

It is further provided that when it is made to appear, to the satisfaction of an inspector of factories or *mines*, or in Scotland a procurator-fiscal, that such employer had used such diligence to enforce the execution of the Acts, and also by what person the offence had been committed, and that it has been committed without the knowledge, consent, or connivance of the employer, the inspector or procurator-fiscal is to proceed against the person whom he believes to be the actual offender, without first proceeding against the employer.

The inspectors of factories and the inspectors of mines are to enforce the provisions of the Truck Acts within their districts so far as respects factories, workshops, and *mines* inspected by them respectively. They are to have for that purpose the same powers as under the Acts relating to factories or *mines*, and all expenses incurred by them are to be defrayed out of moneys provided by Parliament.

Recovery of penalties.

Offences against the Acts are to be prosecuted, and penalties recovered, in manner provided by the Summary Jurisdiction Acts (meaning, as respects England, the Acts defined by the Summary Jurisdiction Act, 1879; and as respects Scotland, the Summary Jurisdiction (Scotland)

Acts, 1864 and 1881, and any Acts amending the same). The maximum penalty is £20.

Application of penalties.

All penalties, as regards England, are to go to the Consolidated Fund, and in Scotland the procurators-fiscal of the sheriff courts are to investigate and prosecute offences, and such prosecutions may also be instituted at the instance of any inspector of factories or of mines, and all offences are to be prosecuted in the sheriff court.

In Ireland, offences are to be prosecuted, and penalties recovered, as provided for by the Summary Jurisdiction (Ireland) Acts (*i.e.*, within the Dublin metropolitan police district, the Acts regulating the powers and duties of justices of the peace and of the police of that district; and elsewhere in Ireland, the Petty Sessions (Ireland) Act, 1851, and amending Acts).

Penalties are to be applied as directed by the Fines (Ireland) Act, 1851, and amending Acts.

Disqualification of justice of peace.

A person engaged in the same trade or occupation as an employer charged with an offence against the principal or amending Acts is disqualified from acting as a justice of the peace in hearing and determining such charge.

The unrepealed portions of the Act 1 & 2 Will. IV. c. 37 (called the principal Act), and the amending Act of 1887, are reprinted after the reprint of the Mines Act.

CONCLUSION.

We have now gone through the various provisions of the Coal Mines Regulation Act, 1887, and the Truck Acts of 1831 and 1887, and have

endeavoured to make our volume a ready and convenient manual, not only for the professional man, but also for that large class who are daily interested personally in the subjects dealt with by the Acts named, and who desire accurately to ascertain their position and duties as defined by these important statutes. Conclusions.

The numerous suggestions and inquiries which have been received from every class concerned, both as employers and employed, during the progress of this work, have been carefully considered, and it is hoped that those who have thus shewn their friendly interest will find that all communications have met with the fullest attention.

If sufficient has been done to make the book useful, so far as may be, as a handbook and guide to a knowledge of regulations which the Legislature has made it imperative on all to observe in the future management and working of mines, in the ascertaining and dealing with the payment of the wages of persons employed, we shall feel satisfied with the result of the task we have undertaken.

COAL MINES REGULATION ACT, 1887

(50 *AND* 51 *VICT. CAP.* 58).

ARRANGEMENT OF SECTIONS.

A.D. 1887.

PRELIMINARY.

SECT.

1. Short title.
2. Commencement of Act.
3. Application of Act.

PART I.

EMPLOYMENT OF BOYS, GIRLS, AND WOMEN.

4. Employment below ground of boys under twelve and of girls and women prohibited.
5. Hours of employment of boys over twelve below ground.
6. Regulations as to employment of boys between twelve and sixteen below ground.
7. Employment of boys, girls, and women above ground.
8. Register to be kept of boys, girls, and women employed.
9. Penalty for employment of persons in contravention of Act.
10. Payment of school fees out of wages.

WAGES.

11. Prohibition of payment of wages at public-houses, &c.
12. Payment of persons employed in mines by weight.
13. Appointment and removal of check-weigher on part of men.
14. Remuneration of check-weigher.
15. Application of Weights and Measures Act to weights, &c., used in mines.

SINGLE SHAFTS.

16. Prohibition of single shafts.
17. Agreements not to preclude compliance with Act.
18. Exceptions from provisions as to shafts.

DIVISION OF MINE INTO PARTS.

19. Division of mine into parts.

CERTIFICATED MANAGERS.

SECT.

A.D. 1887.

20. Appointment of manager of mine.
21. Daily supervision of mine by manager or under-manager.
22. Contractor for mineral, &c., disqualified for post of manager or under-manager.
23. Constitution of Board for appointing examiners for granting certificates of competency to managers and under-managers.
24. Proceedings and powers of Board for appointing examiners.
25. Rules by Secretary of State as to examinations.
26. Grant of certificates to applicants on passing examination.
27. Inquiry into competency of manager, and cancellation of certificate in case of unfitness.
28. Costs and expenses of inquiry.
29. Record of cancellation of certificate; restoration in certain cases.
30. Copy of certificate in case of loss.
31. Expenses in relation to certificates, and application of fees.
32. Penalty for forgery of, or false declaration as to, certificate.

RETURNS, PLAN, NOTICES, AND ABANDONMENT.

33. Returns by owner agent or manager of mine.
34. Plan of mine to be kept at office.
35. Notice to be given of accidents in mines.
36. Notice to be given of opening and abandonment of mine.
37. Fencing in case of abandoned mine.
38. Plan of abandoned mine or seam to be sent to Secretary of State.

INSPECTION.

39. Appointment of inspectors of mines.
40. Disqualification of persons as inspectors.
41. Powers of inspectors.
42. Notice by inspector of causes of danger not expressly provided against.
43. Annual reports of inspectors.
44. Special reports of inspectors.
45. Formal investigation when directed by Secretary of State.
46. Publication of reports.

ARBITRATION.

47. Provisions as to arbitrations.

CORONERS.

48. Provisions as to coroners' inquests on deaths from accidents in mines.

PART II.

RULES.

GENERAL RULES.

49. General rules. Ventilation of mine. Stations and inspection of condition as to ventilation, &c. Inspection of machinery, &c., above and below ground. Fencing of entrances. Withdrawal of workmen in case of danger. Use of safety lamps in certain places. Construction of safety lamps. Examination of safety lamps. Lamp stations. Use of explosives below ground. Water and boreholes. Signalling and manholes for travelling planes worked by machinery. Manholes for other travelling roads. Manholes to be kept clear. Dimensions of travelling roads. Fencing of old shafts. Fencing of entrances to shafts. Securing of shafts. Securing of roofs and sides. Timbering. Option of using downcast shaft. Attendance of engineman. Means of signalling for working shafts. Cover overhead. Chains. Prevention of rope slipping on drum. Break and indicator. Fencing machinery. Safety valves and gauges for boilers. Barometer, &c. Stretchers. Wilful damage. Observance of directions. Books and copies thereof. Periodical inspection on behalf of workmen. A.D 1887.

50. Penalty on non-compliance with rules.

SPECIAL RULES.

51. Special rules for every mine.
52. Establishment of new special rules.
53. Secretary of State may object to special rules.
54. Amendment of special rules.
55. False statements, and neglect to transmit special rules.
56. Certified copy of special rules to be evidence.

PUBLICATION OF ABSTRACT OF ACT AND OF SPECIAL RULES.

57. Publication of Abstract of Act and copy of special rules.
58. Pulling down or defacing notices.

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requires, the word "mine" means a mine to which this Act applies.

[1] These words are new. They are inserted to obviate the necessity for repeating the words "to which this "Act applies" in the various sections throughout the Act.

Mines other than those named in this section are regulated by the Metalliferous Mines Regulation Act, 1872 (35 & 36 Vict. c. 77).

If any question arises (otherwise than in legal proceedings) as to whether the present Act or the Metalliferous Mines Act applies to any mine, the matter is to be referred to a Secretary of State, whose decision thereon is to be final (section 71).

"Mine" includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven, and all the shafts, levels, planes, works, tramways, and sidings, both below ground and above ground, in and adjacent to and belonging to the mine (section 75).

Where two or more parts of a mine are worked separately, each part is to be deemed a separate mine (section 19).

PART I.

EMPLOYMENT OF BOYS, GIRLS, AND WOMEN.

Employment below ground of boys under twelve and of girls and women prohibited.

4. No boy under the age of twelve years, and no girl or woman of any age, shall be employed in or allowed to be for the purpose of employment in any mine below ground.

"Boy" means a male under the age of sixteen years.

"Girl" means a female under the age of sixteen years.

"Woman" means a female of the age of sixteen years or upwards.

In the former Act the terms "young persons and "children" were used. These terms have now disappeared.

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Under the former Act it was provided that a boy of the age of ten and under twelve might not be employed in a mine below ground except by order of a Secretary of State in cases where, by reason of the thinness of the seams, such employment was considered necessary. Under the present statute a boy under twelve may not under any circumstances be employed below ground, but it is provided that a boy under twelve lawfully so employed before the 1st of January 1888 may continue to be employed in a mine (section 82).

Sections 8, 9, and 10 of the former Act, which contained the regulations under which the employment of boys under twelve was to be conducted, are not re-enacted, but the provisions of the Education Acts will have to be attended to in regard to boys under thirteen.

The immediate employer of every boy is to report to the manager, or some person appointed by him, his intention to employ the boy in the mine (section 8 (2)).

Hours of employment of boys over twelve below ground.

5. A boy of or above the age of twelve years shall not be employed in or allowed to be for the purpose of employment in any mine below ground for more than fifty-four hours in any one week, nor more than ten hours in any one day, nor otherwise than in accordance with the regulations hereinafter contained with respect to the employment of boys in a mine below ground.

In the former Act the words were "a boy of the age of "twelve and under the age of thirteen years, and a male "young person under the age of sixteen years." See note to the previous section.

In other respects the former provision under this head was substantially the same as the above.

Regulations as to employment of boys below ground.

6. With respect to the employment of boys in a mine below ground, the following regulations shall have effect; that is to say,

(1.) There shall be allowed an interval of not less than eight hours between the period of employment on Friday and the period of employment on the following Saturday, and in other cases of not less than twelve hours between each period of employment:

(2.) The period of each employment shall be

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deemed to begin at the time of leaving the surface, and to end at the time of returning to the surface:

(3.) A week shall be deemed to begin at midnight on Saturday night and to end at midnight on the succeeding Saturday night.

This is substantially the same as section 7 of the former Act.

Employment of boys, girls, and women above ground.

7. With respect to [1] boys, girls, and women employed above ground, in connection with any mine, the following provisions shall have effect:

[1] Instead of "women, young persons, and children" as in the former Act.

(1.) No boy or girl under the age of twelve years shall be so employed [2]:

[2] The words of the former Act were "no child under "the age of ten years shall be so employed."
It is provided that a boy or girl lawfully employed above ground before the 1st of January 1888 may continue to be so employed (section 82).

(2.) No boy or girl under the age of thirteen years shall be so employed—

(*a.*) for more than six days in any one week; or

(*b.*) if employed for more than three days in any one week, for more than six hours in any one day; or

(*c.*) in any other case for more than ten hours in any one day:

This is a re-enactment of sections 5 and 12 (2) of the former Act.

(3.) No boy or girl of or above the age of thirteen years and no woman shall be so employed for more than fifty-four hours in any one week or more than ten hours in any one day [3]:

[3] These provisions are the same as those contained in the former Act (sections 6 and 12 (3)) as to the employment of women and young persons above ground.

(4.) No boy, girl, or woman shall be so employed between the hours of nine at night and five on the following morning, nor on Sunday, nor after two o'clock on Saturday afternoon[4]:

[4] This is not to apply to any mine in Ireland so long as it is exempted by order of a Secretary of State. Mine owners in Ireland who wish to have this exemption should apply for it to the Secretary of State.

(5.) There shall be allowed an interval of not less than eight hours between the termination of employment on Friday and the commencement of employment on the following Saturday, and in other cases of not less than twelve hours between the termination of employment on one day, and the commencement of the next employment:

(6.) A week shall be deemed to begin at midnight on Saturday night and to end at midnight on the succeeding Saturday night:

(7.) No boy, girl, or woman shall be employed continuously for more than five hours, without an interval of at least half an hour for a meal, nor for more than eight hours on any one day, without an interval or intervals for meals amounting altogether to not less than one hour and a half[5]:

[5] Sub-sections 5, 6, and 7 contain the same provisions as were enacted by the former Act (sections 7 and 12). The Secretary of State for the Home Department stated, in answer to a question in the House of Commons, on the 2nd of March 1888, that, as he read the Act, the term of fifty-four hours per week did not include the intervals allowed for meals under this sub-section.

(8.) No boy, girl, or woman shall be employed in moving railway waggons.[6]

[6] This is an entirely new provision.

The provisions of this section as to the employment of boys, girls, and women after two o'clock on Saturday afternoon, shall not apply in the case of any mine in

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Ireland, so long as it is exempted by order of a Secretary of State.

As to orders by a Secretary of State, see sections 72 and 79, post.

Register to be kept of boys, girls, and women employed.

8. (1.) The owner agent or manager of every mine shall keep in the office at the mine a register, and shall cause to be entered in that register, in such form as the Secretary of State may from time to time prescribe or sanction,[1] the name, age,[2] residence, and date of first employment of all boys employed in the mine below ground, and of all boys, girls, and women employed above ground in connexion with the mine; and shall on request, produce the register to any inspector under this Act, and to any officer of a school board or school attendance committee[3] in the district in which the mine is situate, at the mine at all reasonable times, and shall allow any such inspector or officer to inspect and copy the same.[4]

[1] It is enacted for the first time that the register is to be entered in such form as the Secretary of State may from time to time prescribe or sanction.

[2] The official form of register required under this section will be found in the Appendix, pp. 227-230. It will be observed that the column for the age is headed "Date of Birth," so that the age will have to be calculated. In the form of register for women employed above ground there is no column for the age, notwithstanding the words of the section. An alternative form of register has since been issued, which is also given in the Appendix, p. 231.

[3] The obligation to produce the register to any School Board officer is a new one. The provision in the former Act, as to a memorandum of the certificate of the school attendance of boys being attached, is omitted from the present Act.

[4] This register will not give all the facts as to labour required by the annual return to be furnished pursuant to section 33 of the Act. By the annual return, the number of persons ordinarily employed during the year is to be given under the following heads:—

Underground	Boys of 12 and under 13 .	
	Males above 16 . .	
Total underground		
Above ground (including those employed on sidings and private branch railways and tramways, and in cleaning, washing, and coking of coal)	Boys of 12 and under 13 .	
	Girls do. .	
	Boys of 13 and under 16 .	
	Girls do. .	
	Females above 16 . .	
	Males do. . . .	
Total above ground		
Total number of persons employed under ground and above ground		

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In addition, therefore, to the official register, it will be necessary to have documentary evidence shewing the above facts as to persons employed either immediately by the owner or otherwise. This annual return must now be made on or before the 21st of January of every year, instead of the 1st of February as in the former Act. (See section 33, post.)

(2.) The immediate employer of every boy, other than the owner agent or manager of the mine, before he causes the boy to be below ground in any mine, shall report to the manager of the mine or to some person appointed by that manager, that he is about to employ the boy in the mine.[5]

[5] If the manager does not intend personally to receive these reports, which may be verbal, he may post a notice at the mine naming the official to whom such reports are to be made. A form of notice for the purpose will be found in the Appendix, p. 255.

Penalty for employment of persons in contravention of Act.

9. If any person contravenes or fails to comply with, or permits[1] any person to contravene or fail to comply with, any provision of this Act with respect to the employment of boys,[2] girls, or women, or to the register of boys girls and women, or to reporting the intended employment of boys, he shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner agent and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by

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publishing and to the best of his power enforcing the provisions of this Act, to prevent the contravention or non-compliance.

[1] In case of a charge against a person for permitting an offence, it may be useful to refer to Reg. *v.* Handley, decided under 5 & 6 Vict. c. 99, in which it was held that to constitute a man guilty of "allowing" a breach of the Act it was necessary to shew some knowledge or acquiescence on his part (9 L. T. N. S. 827).

[2] Section 64 provides that if it appears that a boy or girl has been employed on the representation of his or her parent or guardian that he or she was of the proper age, and under the belief in good faith that such was the case, the owner, agent, or manager of the mine, and the employer are exempt from any penalty, and the parent or guardian are for the misrepresentation to be deemed guilty of an offence against the Act. As to penalty, see section 59.

Payment of school fees out of wages.

10. (1.) After a request in writing by the principal teacher of a public elementary school which is attended by any boy or girl employed in or in connexion with a mine, the person who pays the wages of the boy or girl shall as long as he employs the boy or girl pay to the principal teacher of that school, for every week that the boy or girl attends the school, the weekly sum specified in the application, not exceeding twopence per week, and not exceeding one-twelfth part of the wages of the boy or girl, and may deduct the sum so paid by him from the wages payable for the services of the boy or girl.

(2.) If any person after such application refuses to pay on demand any sum that becomes due as aforesaid, he shall be liable to a penalty not exceeding ten shillings.

In the former Act (section 9) this provision only applied to boys under twelve.

Deductions from wages, for education, &c., are authorized by the Truck Acts, 1831 and 1887. Section 9 of the latter Act provides for an annual audit of deductions.

Sections 8, 10, and 11 of the former Act, containing regulations as to education with respect to boys, granting certificates, and penalty for non-attendance, are not re-enacted, but the provisions of the Elementary Education

Acts, 1876 (39 & 40 Vict. c. 79) and 1880 (43 & 44 Vict. c. 23), must be attended to. Such of those provisions as are important are set out in the Appendix, p. 248. REPRINT WITH NOTES.

WAGES.

11. (1.) No wages shall be paid to any person employed in or about any mine at or within any public house, beer shop, or place for the sale of any spirits beer wine cyder or other spirituous or fermented liquor, or other house of entertainment, or any office garden or place belonging or contiguous thereto, or occupied therewith. Prohibition of payment of wages at public houses, &c.

(2.) Every person who contravenes or fails to comply with or permits any person to contravene or fail to comply with this section shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner agent and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means by publishing and to the best of his power enforcing the provisions of this section to prevent the contravention or non-compliance.

This is a re-enactment of section 16 of the former Act. A similar prohibition of the payment of wages in other trades is contained in 46 & 47 Vict. c. 31.

12. (1.) Where the amount of wages paid to any of the persons employed in a mine depends on the amount of mineral gotten by them, those persons shall be paid according to the actual weight gotten by them of the mineral contracted to be gotten, and the mineral gotten by them shall be truly weighed [1]at a place as near to the pit mouth as is reasonably practicable. Payment of persons employed in mines by weight.

[1] The words "at a place as near to the pit mouth as "is reasonably practicable" are new. Care must be taken to carry out this new requirement.

[2]Provided that nothing in this section shall preclude the owner agent or manager of the mine from agreeing with the persons employed in the mine that

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deductions shall be made in respect of stones or substances other than the mineral contracted to be gotten, which shall be sent out of the mine with the mineral contracted to be gotten, or in respect of any tubs baskets or hutches being improperly filled in those cases where they are filled by the getter of the mineral or his drawer, or by the person immediately employed by him; such deductions being determined in such special mode as may be agreed upon between the owner agent or manager of the mine on the one hand, and the persons employed in the mine on the other, or by some person appointed in that behalf by the owner agent or manager, or (if any check weigher is stationed for this purpose as hereinafter mentioned) by such person and such check weigher, or in case of difference by a third person to be mutually agreed on by the owner agent or manager of the mine on the one hand, and the persons employed in the mine on the other, or in default of agreement appointed by a chairman of a court of quarter sessions within the jurisdiction of which any shaft of the mine is situate.

The wording of sub-section 1 is much clearer than in the corresponding section of the former Act, and the provisions as to deductions being determined "in such special "mode as may be agreed upon" and as to the appointment of a third person by a chairman of quarter sessions are new.

[2] Under this proviso an agreement should be made as to what the mineral is which is to be gotten and paid for by weight, and also as to what deductions are to be made in respect of stone or substances (the word used in the former Act was "materials") other than the mineral contracted to be gotten which may be sent out of the mine with such mineral.

It should also cover the case of any tubs being improperly filled, and should stipulate the *special* mode in which the deductions are to be determined. The owner, agent, or manager should also appoint a competent person to carry out the section.

An important case under the corresponding section (17) of the former Act was decided by the Queen's Bench Division on the 13th of July 1887. In the defendants' colliery the coal was weighed close to the pit's mouth, in

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presence of the weigher and check-weigher, and was then carried to a distance, and thrown on to a screen, and the weight of the slack which passed through the screen was ascertained by a person in the defendants' employ, who was not a weigher or check-weigher, and wages were paid according to the weight of the coal after deducting the weight of such slack.

The action was brought by the persons employed in getting the coal, to recover the amount so deducted from their wages. *Held* (reversing the decision of the county court judge), that the deductions, not having been determined as provided by the statute, were illegal, and the plaintiffs were entitled to recover (Bourne *v.* Netherseal Colliery Company, L. R. 19 Q. B. D. 357).

This decision has since been affirmed by the Court of Appeal, principally on a different ground, but the judgment of the Divisional Court on the grounds above stated was also upheld—leave was formally given to appeal to the House of Lords. Both judgments are printed in the Appendix, pp. 287, 291. In the Appendix, at p. 307, will also be found a reprint of the judgment of the Divisional Court in the case of Jones *v.* The Llynvi Tondu Colliery Company.

It may be well also to refer to the case of Hynd *v.* Spowart & Co., a Scotch case bearing on the same point, a summary of which is given in the Appendix, p. 310.

Under the circumstances of this case, the Scotch Court decided that the "Billy Fairplay" was a lawful weighing machine under the Coal Mines Regulation Act, 1872; but this decision is disapproved by the Court of Appeal in the Netherseal case.

These cases should be referred to before an agreement with the men is made, and possibly also for the purpose of considering whether any new agreement is necessary.

(2.) If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with, this section, he shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner agent and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means by publishing and to the best of his power enforcing the provisions of this section to prevent the contravention or non-compliance.

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It will be observed that the owner, agent, and manager are each to be guilty of an offence against the Act for the default of any person employed (see sections 50 and 59).

(3.) Where it is proved to the satisfaction of a Secretary of State, in the case of any mine or class of mines employing not more than thirty persons under ground, to be expedient that the persons employed therein should, upon the joint representation of the owner or owners of any such mine or class of mines and the said persons, be paid by any method other than that provided by this Act, such Secretary of State may, if he think fit, by order allow the same either without conditions or during the time and on the conditions specified in the order.

This sub-section differs from the provision to a similar effect contained in the former Act. It will be observed that a mine, before it can be exempted from the obligation as to weighing, must not employ more than thirty persons under ground, and in addition there must be a joint representation of the owner and the persons employed, that it is expedient such persons should be paid otherwise than by weight.

As to orders by a Secretary of State, see sections 72 and 79.

Appointment on part of men, and removal, of check weigher.

13. (1.) The persons who are employed in a mine, and are paid according to the weight of the mineral gotten by them, may, at their own cost, station a person (in this Act referred to as "a check weigher") at each place appointed for the weighing of the mineral, and at each place appointed for determining the deductions, in order that he may on behalf of the persons by whom he is so stationed take a correct account of the weight of the mineral or determine correctly the deductions as the case may be.

The former Act contemplated the appointment of only one check-weigher at each mine, but a check-weigher may now be stationed at *each* place appointed for the weighing of the mineral, and at *each* place appointed for determining the deductions, in order that he may take a correct account of the weight or determine correctly the deductions. It will be further observed that it is not now necessary that the check-weigher should, as was the case under the former Act, be one of the persons em-

ployed either in the mine at which he is stationed or in another mine belonging to the same owner. There is now no restriction as to the person to be appointed check-weigher, and the decision in the case of Hopkinson *v.* Caunt, mentioned in the Appendix, p. 310, does not now apply.

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It may be well also to refer to the case of Whitehead *v.* Holdsworth, a note of which appears in the Appendix, p. 310.

(2.) A check weigher shall have every facility afforded to him for enabling him to fulfil the duties for which he is stationed, including facilities for examining and testing the weighing machine, and checking the tareing of tubs and trams where necessary; and if at any mine proper facilities are not afforded to a check weigher as required by this section, the owner agent and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means to enforce to the best of his power the requirements of this section.

Under the former Act the check-weigher was to have every facility for taking a correct account of the weighing for the persons by whom he was stationed. He is now to have facilities, in addition, for examining and testing the weighing machine and checking the tareing of tubs and trams where necessary. As to penalty, see sections 50 and 59.

(3.) A check weigher shall not be authorised in any way to impede or interrupt the working of the mine, or to interfere with the weighing, or with any of the workmen or with the management of the mine; but shall be authorised only to take such account or determine such deductions as aforesaid, and the absence of a check weigher from the place at which he is stationed shall not be a reason for interrupting or delaying the weighing or the determination of deductions at such place respectively, but the same shall be done or made by the person appointed in that behalf by the owner agent or manager, unless the absent check weigher had reasonable ground to suppose that the weighing or the determination of the deductions, as the case may be, would not be proceeded with: Provided always, that nothing

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in this section shall prevent a check weigher giving to any workman an account of the mineral gotten by him, or information with respect to the weighing, or the weighing machine, or the tareing of the tubs or trams, or with respect to the deductions or any other matter within the scope of his duties as check weigher, so always, nevertheless, that the working of the mine be not interrupted or impeded.

Under the former Act it was simply provided that the check-weigher should not impede or interrupt the working of the mine or interfere with the weighing, but should only be authorized to take an account of the weighing, and his absence was not to be a reason for interrupting or delaying the weighing.

It will be observed that the above sub-section 3 is a considerable extension of the old provision on this point.

(4.) If the owner agent or manager of the mine desires the removal of a check weigher on the ground that the check weigher has impeded or interrupted the working of the mine, or interfered with the weighing, or with any of the workmen, or with the management of the mine, or has at the mine, to the detriment of the owner agent or manager, done anything beyond taking such account determining such deductions or giving such information as aforesaid, he may complain to a court of summary jurisdiction, who, if of opinion that the owner agent or manager shows sufficient primâ facie ground for the removal of the check weigher, shall call on the check weigher to show cause against his removal.

The words "or has otherwise misconducted himself," which occurred in the former Act, are omitted, and in lieu thereof the words "or with any of the workmen," &c., down to "giving such information as aforesaid" are substituted. (As to proceedings for the removal of a check-weigher, see section 61, sub-section 2.)

(5.) On the hearing of the case the court shall hear the parties, and, if they think that at the hearing sufficient ground is shown by the owner agent or manager to justify the removal of the check weigher, shall make a summary order for his removal, and the

check weigher shall thereupon be removed, but without prejudice to the stationing of another check weigher in his place.

(6.) The court may in every case make such order as to the costs of the proceedings as the court may think just.

See the decision as to the removal of a check-weigher in the case of Prentice *v.* Hall (1877), contained in the Appendix, p. 311, justifying the removal on the ground of misconduct.

A case under this section was tried before the stipendiary magistrate at Hanley on the 30th of January 1888, being an application for the removal of the check-weighman at the Northwood Colliery, on the ground that he had interfered with the men employed, to the detriment of the owners, and had impeded and interrupted the working of the mine, by posting up a notice in the lamp-house of the colliery requesting the men to attend a meeting under the auspices of the Miners' Federation, in consequence of which the defendant and twenty-seven miners had absented themselves from work on the afternoon of the 19th of January in order to attend the meeting.

The stipendiary ordered the removal of the check-weighman, and mulcted him in the costs, £3 8*s*.

The defendant's counsel applied for a case, but the stipendiary said there was no point of law arising. It was simply a question of fact, and the Court found that the defendant had acted beyond his duties, and done that which was to the detriment of the owners. (Appendix, p. 313.)

(7.) If in pursuance of any order of exemption made by a Secretary of State, the persons employed in a mine are paid by the measure or gauge of the material gotten by them, the provisions of this Act shall apply in like manner as if the term "weighing" included measuring and gauging, and the terms relating to weighing shall be construed accordingly.

See section 12, sub-section 3.

(8.) If the person appointed by the owner, agent, or manager to weigh the mineral impedes or interrupts the check weigher in the proper discharge of his duties, or improperly interferes with or alters the weighing machine

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or the tare in order to prevent a correct account being taken of the weighing and tareing, he shall be guilty of an offence against this Act.

This is a new provision. There was nothing corresponding with it in the former Act.

Remuneration of check weigher.

14. (1.) Where a check weigher has been appointed by the majority, ascertained by ballot, of the persons employed in a mine who are paid according to the weight of the mineral gotten by them, and has acted as such, he may recover from any person for the time being employed at such mine and so paid, his proportion of the check weigher's wages or recompense, notwithstanding that any of the persons by whom the check weigher was appointed may have left the mine or others have entered the same since the check weigher's appointment, any rule of law or equity to the contrary notwithstanding.

In the previous section, 13, as to the stationing of a check-weigher, the mode of his appointment is not mentioned. The above sub-section 1, section 14, is new. A somewhat similar provision was contained in section 1 of "The Coal Mines Act, 1886" (Lord Cross's Act), which is repealed by the present Act, but that Act did not mention "ballot," and, instead of "persons employed," the words "colliers working in the mine" were used.

The remuneration of a check-weigher can only be recovered where it can be proved that he has been appointed "by the majority, ascertained by ballot, of the "persons employed in a mine who are paid according to "the weight of the mineral gotten by them, and has acted "as such."

The only check-weighers to be recognized are those who are stationed or appointed after the 1st of January 1888, or re-appointed or re-stationed under the Act.

(2.) It shall be lawful for the owner or manager of any mine, where the majority of the before-mentioned persons, ascertained as aforesaid, so agree, to retain the agreed contribution of the persons so employed and paid as aforesaid for the check weigher, notwithstanding the provisions of the Acts relating to truck, and to pay and account for the same to the check weigher.

If the owner or manager of the mine elects to carry out the above provisions, he should first satisfy himself that the check-weigher has been appointed in the manner described, and then what the agreed contribution of the persons employed is. REPRINT WITH NOTES.

The expression "Acts relating to truck" will, it is presumed, include the provisions of "The Truck Amendment "Act, 1887," which received the royal assent on the same day as this Act (16th of September 1887), see post.

Application of 41 & 42 Vict. c. 49 to weights, &c. used in mines.

15. (1.) The Weights and Measures Act, 1878, shall apply to all weights, balances, scales, steelyards, and weighing machines used at any mine for determining the wages payable to any person employed in the mine according to the weight of the mineral gotten by him, in like manner as it applies to weights, balances, scales, steelyards, and weighing machines used for trade.

In the former Act only "weights and measures" were mentioned. The additional words "balances, scales, "steelyards, and weighing machines" are new, and under the former Act, *the Weights and Measures Act, or* any Act then in force relating to weights and measures was made to apply. The words in italics and the subsequent definition of those words were repealed by the Statute Law Revision Act, 1883 (46 & 47 Vict. c. 39).

In this statute it is the Weights and Measures Act, 1878, and when that Act came into operation it applied under the Coal Mines Act, 1872.

(2.) An inspector of weights and measures appointed under the said Act shall once at least in every six months inspect and examine in manner directed by the said Act the weights, balances, scales, steelyards, and weighing machines used or in the possession of any person for use as aforesaid at any mine within his district; and shall also make such inspection and examination at any other time in any case where he has reasonable cause to believe that there is in use at the mine any false or unjust weight, balance, scale, steelyard, or weighing machine.

The above provisions are new. It will be observed that under them an inspector of weights and measures is once at least in every six months to make his inspection, and may do so at any time when he may think it necessary.

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The decisions in two cases as to defective weighing machines under the Weights and Measures Act of 5 & 6 Will. IV. c. 63, are given in the Appendix, p. 316.

(3.) The inspector shall also inspect and examine the measures and gauges in use at the mines within his district; but nothing in this section shall prevent or interfere with the use of the measures or gauges ordinarily used at the mine.

(4.) An inspector may, for the purposes of this section, without any authorisation from a justice of the peace, exercise at or in any mine, as respects all weights, measures, scales, balances, steelyards, and weighing machines used or in the possession of any person for use at or in that mine, all such powers as he could exercise, if authorised in writing by a justice of the peace, under section forty-eight of the Weights and Measures Act, 1878, with respect to any such weights, measures, scales, balances, steelyards, and weighing machines as therein mentioned; and all the provisions of that section, including the liability to penalties, shall apply to such inspection.

Under section 48 of the Weights and Measures Act, 1878, an inspector must be authorized, in writing, under the hand of a justice of the peace, but it will be noticed that in the above section such authorization is not necessary.

The purport of section 48 of the Weights and Measures Act, 1878, is set out in the Introduction to this work, p. 22. The section itself is reprinted in the Appendix, p. 254.

(5.) The inspector of weights and measures shall not, in fulfilling the duties required of him under this section, impede or obstruct the working of the mine.

This provision was contained in the former Act.

SINGLE SHAFTS.

Prohibition of single shafts.

16. (1.) After the commencement of this Act the owner agent or manager of a mine shall not employ any person in the mine, or permit any person to be in the mine for the purpose of employment therein, unless the

following conditions respecting shafts or outlets are complied with, that is to say,— REPRINT WITH NOTES.

(*a.*) There must be at least two shafts or outlets, with which every seam for the time being at work in the mine shall have a communication, so that such shafts or outlets shall afford separate means of ingress and egress available to the persons employed in every such seam, whether the shafts or outlets belong to the same mine or to more than one mine:

In the former Act the word "distinct" was used instead of "separate;" otherwise the provision is substantially the same as before.

See section 18 as to exceptions from provisions as to single shafts.

(*b.*) Such shafts or outlets must not at any point be nearer to one another than fifteen yards; and there shall be between such two shafts or outlets a communication not less than four feet wide and three feet high, and in the case of communications made after the commencement of this Act between shafts or outlets, not less than four feet high.

In the former Act it was provided that the shafts or outlets were to be "separated by natural strata of not "less than ten feet in breadth."

Now in the case of shafts commenced to be sunk after the 1st of January 1888, they are not at any point to be nearer one another than fifteen yards.

The dimensions of existing communications are not altered, but communications made after the 1st of January 1888 are not to be less than four feet high.

The proviso contained in the former Act that the separation should not be deemed incomplete by reason only that openings through the strata between the two shafts had been made for temporary purposes, &c., is not re-enacted.

See section 18 for exceptions and power of exemption by a Secretary of State.

(*c.*) Proper apparatus for raising and lowering persons at each such shaft or outlet shall be kept on the works belonging to the mine; and such apparatus if

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not in actual use at the shafts or outlets, shall be constantly available for use.

This was also provided for in the former Act, but the word "constantly" has been added. Care should be taken to have this proper apparatus constantly available for use.

(2.) Every owner agent and manager of a mine who acts in contravention of or fails to comply with this section shall be guilty of an offence against this Act.

See sections 50, 59, and 60.

(3.) Any of Her Majesty's superior courts, whether any other proceedings have or have not been taken, may, on the application of the Attorney General,[1] prohibit by injunction the working of any mine in which any person is employed, or is permitted to be for the purpose of employment, in contravention of this section, and may award such costs in the matter of the injunction as the court thinks just; but this provision shall be without prejudice to any other remedy permitted by law for enforcing the provisions of this Act.

[1] The Lord Advocate in Scotland and the Attorney-General for Ireland in Ireland.

(4.) Written notice of the intention to apply for such injunction in respect of any mine shall be given to the owner agent or manager of the mine not less than ten days before the application is made.

The foregoing sub-sections 2, 3, and 4 are re-enactments of provisions contained in the former Act.

Agreements not to preclude compliance with Act.

17. No person shall be precluded by any agreement from doing such acts as may be necessary for providing a second shaft or outlet to a mine, where the same is required by this Act, or be liable under any contract to any penalty or forfeiture for doing such acts as may be necessary in order to comply with the provisions of this Act with respect to shafts or outlets.

This proviso was contained in section 21 of the former Act.

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Exceptions from provisions as to shafts.

18. The foregoing provisions of this Act with respect to shafts or outlets shall not apply—

(i.) In the case of a new mine being opened—

(*a*) to any working for the purpose of making a communication between two or more shafts; or

(*b*) to any working for the purpose of searching for or proving minerals;

so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connexion with a single shaft or outlet: nor

> The expression "a single shaft" is used instead of "each shaft," as in the former Act.

(ii.) To any proved mine so long as it is exempted by order of a Secretary of State on the ground either—

(*a*) that the quantity of mineral proved is not sufficient to repay the outlay which would be occasioned by sinking or making a second shaft or outlet, [1]or by establishing communication with a second shaft or outlet, in any case where such communication existed and has become unavailable; or

(*b*) that the workings in any seam of the mine have reached the boundary of the property or the extremity of the mineral field of which that seam is a part, and that it is expedient to work away the pillars already formed in course of the ordinary working, notwithstanding that one of the shafts or outlets may be cut off by so working away the pillars of that seam;

and so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connection with [2]a single shaft or outlet; nor

> [1] These words to the end of (*a*) are new.
>
> [2] This is the same as in the former Act, but the words "a single shaft" are substituted for "the shaft."
>
> As to powers of exemption by a Secretary of State, see sections 72 and 79.

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(iii.) To any mine—

(*a*) while a shaft is being sunk, or an outlet being made;[1] or

(*b*) one of the shafts or outlets of which has become, by reason of some accident, unavailable for the use of the persons employed in the mine;

so long as the mine is exempted by order of a Secretary of State, and as the conditions (if any) annexed to the order of exemption are duly observed. The provision in this Act requiring the two shafts or outlets of a mine to be separated by a distance of not less than fifteen yards shall not apply to any mine which is provided with two shafts sunk before the first day of January one thousand eight hundred and sixty five but at that time separated by a distance of less than ten feet, or commenced to be sunk before the commencement of this Act but separated by a distance of more than ten feet and less than fifteen yards.[2]

The foregoing provisions of this Act as to the dimensions of the communication between two shafts or outlets shall not apply to any mine or class of mines so long as the same is exempted therefrom by order of a Secretary of State by reason of the thinness of the seams or other exigencies affecting that mine or class of mines, and so long as the conditions (if any) annexed to the order of exemption are duly observed.[3]

[1] These words are new, and carry out more clearly than the Act of 1872 what was intended by that Act.

[2] New, and necessary to protect existing shafts and outlets.

[3] New, and inserted for the protection of thin mines.

Sections 23 and 24 of the former Act, postponing temporarily the provisions of that statute compelling double shafts and outlets, and for the extension of that time by a Secretary of State, are omitted, having been repealed by the Statute Law Revision Act, 1883 (46 & 47 Vict. c. 39).

DIVISION OF MINE INTO PARTS.

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19. (1.) Where two or more parts of a mine are worked separately, the owner agent or manager of the mine may give notice in writing to that effect to the inspector of the district, and thereupon each such part shall, for all the purposes of this Act, be deemed to be a separate mine. Division of mine into parts.

The former Act provided that the notice was to be given by the owner or agent.

For the provisions as to notices under the Act, see section 73.

(2.) If a Secretary of State is of opinion that the division of a mine in pursuance of this section tends to lead to evasion of the provisions of this Act, or otherwise to prevent the carrying of this Act into effect, he may object to the division by notice served on the owner agent or manager of the mine; and the owner agent or manager, if he declines to acquiesce in such objection, may, within twenty days after receipt of the notice, send a notice to the inspector of the district stating that he declines so to acquiesce, and thereupon the matter shall be determined by arbitration [1]in manner provided by this Act; and the date of the receipt of the last-mentioned notice shall be deemed to be the date of the reference.

Under this Act the notice of objection may be served on the owner, agent, or manager; otherwise the section corresponds with section 25 of the former Act.

[1] Section 47 relates to arbitration.

In a case decided in the Queen's Bench Division on the 6th of November 1886 it was held that the expression "part of the mine" used in general rule 8 ("Gunpowder "and Blasting") in the former Act did not mean the neighbourhood where the gunpowder would be used, but such a part of the mine as could be treated by the statute as a separate mine (Wales *v.* Thomas, L. R. 16 Q. B. D. 340).

CERTIFICATED MANAGERS.

20. (1.) Every mine shall be under a manager, who shall be responsible for the control, management, and Appointment of manager of mine.

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direction of the mine, and the owner or agent of every such mine shall nominate himself or some other person to be the manager of such mine, and shall send written notice to the inspector of the district of the manager's name and address.

The former Act provided that every mine should be under the "control and daily supervision" of a manager. The words in the above section "who shall be responsible "for the control, management, and direction of the mine" are now substituted.

It will be observed that the next section (21) provides for "daily personal supervision" being exercised.

(2.) A person shall not be qualified to be a manager of a mine unless he is for the time being registered as the holder of a [1]first class certificate under this Act.

[1] The expression "first class" is new. For the definition of this expression see section 23 (1). Certificates of competency or of service under the former Act, and in force immediately before the 1st of January 1888, are to be deemed first-class certificates under this Act (section 79).

(3.) If any mine is worked for more than fourteen days without there being such a manager for the mine as is required by this section, the owner and agent of the mine shall each be liable to a fine not exceeding fifty pounds, and to a further fine not exceeding ten pounds for every day during which the mine is so worked.

Provided that—

(*a.*) The owner of the mine shall not be liable to any such fine if he proves that he had taken all reasonable means by the enforcement of this section to prevent the mine being worked in contravention of this section;

The agent is not protected by this section.

(*b.*) If for any reasonable cause there is for the time being no manager of a mine qualified as required by this section, the owner or agent of the mine may appoint any competent person not holding a certifi-

cate under this Act to be manager, for a period not exceeding two months or such longer period as may elapse before such person has an opportunity [1]in the district wherein the mine is situate of obtaining by examination a certificate under this Act, and shall send to the inspector of the district a written notice of the manager's name and address, and of the reason for his appointment; and

[1] The words "in the district wherein the mine is "situate" are new.

This section appears to contemplate the appointment of only such persons as propose to obtain a certificate of competency of the first class.

(c.) A mine in which not more than thirty persons are employed below ground shall be exempt from the provisions of this section, [1]unless the inspector of the district, by notice in writing served on the owner or agent of the mine, requires that it be under the control of a manager.

[1] In the former Act the words "or of which the "average output does not exceed twenty-five tons" occurred, but they have been omitted from the present Act.

Daily supervision of mine by manager or under-manager.

21. (1.) In every mine required by this Act to be under the control of a certificated manager, daily personal supervision shall be exercised either by the manager, or by an under-manager nominated in writing by the owner or agent of the mine.

This is new, and is in place of section 26 of the former Act, the words "daily personal supervision" being substituted for "control and daily supervision" in that Act. Under-managers were not named in the former Act.

In the case of Plant *v.* The Cheadle Valley Coal and Iron Company, decided, under the former Act, in the Queen's Bench Division on the 29th of November 1882, before Lord Chief Justice Coleridge and Mr. Justice Stephen, Lord Coleridge, in giving judgment, said that it was clear from the true construction of the Act that it was the duty of the manager to be in the mine day by day to supervise it, and when he undertook this most onerous duty—for onerous indeed it was—if he desired

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at any time to be away, then the Act required that he should provide some other certificated colliery manager to fill his place during the period of his absence.

A short report of this case is contained in the Appendix, p. 317.

(2.) Every person[1] so nominated must hold either a first class or second class certificate under this Act, and shall, in the absence of the manager, have the same responsibility, and be subject to the same liabilities as the manager under this Act; but the nomination of an under-manager shall not affect the personal responsibility of the manager under this Act.

[1] That is, every under-manager.

Second-class certificates as under-managers may be either certificates of competency by examination (the examination and qualifications of applicants being suitable for practical working miners—section 24) or certificates of service, the qualifications for which are that the candidate must, at any time within five years before the 16th of September 1887, for a period of not less than twelve months, have exercised functions substantially corresponding to those of an under-manager in a mine (section 80). Full instructions as to applying for those certificates will be found in the Appendix at pp. 232–238.

See also the remarks in the Introduction as to the communication from the Home Office, p. 33.

Disqualifications for post of manager or under-manager.

22. A contractor for mineral, or person employed by such a contractor, is not eligible for the post of manager or under-manager under this Act.

This disqualification was also contained in section 26 of the former Act.

Constitution of board for appointing examiners for granting certificates of competency to managers and under-managers.

23. (1.) There shall be two descriptions of certificates of competency under this Act, (i) first class certificates, that is to say, certificates of fitness to be manager; and (ii) second class certificates, that is to say, certificates of fitness to be under-manager; but no person shall be entitled to a certificate under this Act unless he shall have had practical experience in a mine for at least five years.

This provision for second-class certificates as under-managers is new.

Certificates, both of competency and of service, granted under the former Act and in force immediately before the 1st of January 1888, are to be deemed first-class certificates under the present Act (section 79).

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(2.) For the purpose of granting in any part of the United Kingdom, to be from time to time defined by an order of a Secretary of State, certificates of competency for the purposes of this Act, examiners shall be appointed by a board consisting of—

(*a.*) Three persons being owners of mines in the said part of the United Kingdom; and

(*b.*) Three persons employed or who have been employed in or about any mine in the said part of the United Kingdom, not being owners agents or managers of a mine; and

(*c.*) Three persons practising as mining engineers agents or managers of mines, or coal viewers in the said part of the United Kingdom; and

(*d.*) One inspector under this Act.

The constitution of the Examination Boards remains the same as before, with the exception that the words "or who have been employed" are new. Section 78 expressly provides that the Examination Boards appointed under the repealed Act are to be continued as if appointed under the present Act. The secretaries of the various Boards have also been continued by the Home Secretary.

(3.) The members of the board shall be appointed and may be removed by a Secretary of State, and shall hold office during his pleasure.

The words used in the former Act (section 27) were "a "Secretary of State may, from time to time, appoint, "remove, and re-appoint fit persons to form such Board."

24. (1.) The proceedings of each board shall be in accordance with the rules contained in schedule one to this Act.

Proceedings and powers of board for appointing examiners.

These rules are the same as were contained in schedule II. of the former Act with the exception of the first one, for which the following is substituted:—

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"(*a.*) Any regulations made by the Board consti-
"tuted under the Acts repealed by this Act, and in
"force at the commencement of this Act, shall continue
"in force until repealed or altered by the Board."

(2.) Each board shall from time to time appoint examiners, not being members of the board, except with the consent of the Secretary of State, to conduct the examinations in the part of the United Kingdom for which the board acts, of applicants for certificates of competency under this Act, and may from time to time make alter and revoke rules as to the conduct of such examinations and the qualifications of the applicants, so, however, that in every such examination regard shall be had to such knowledge as is necessary for the practical working of mines in that part of the United Kingdom, [1] and that the examination and qualifications of applicants for second class certificates shall be suitable for practical working miners.

[1] These latter words are new.

(3.) Each board shall make from time to time to a Secretary of State a report of their proceedings, and of such other matters as a Secretary of State may from time to time require.

A similar provision, except that the words "report "and return" were used, was contained in the former Act.

The forms of application for certificates are given in the Appendix, pp. 234–238.

Rules by Secretary of State as to examinations.

25. A Secretary of State may from time to time make alter and revoke rules as to the places and times of examinations of applicants for certificates of competency under this Act, the number and remuneration of the examiners, and the fees to be paid by the applicants, so that the fees do not exceed those specified in schedule two to this Act. Every such rule shall be observed by every board appointed under this Act to which it applies.

This is a re-enactment of section 29 of the former Act, schedule II. being substituted for schedule I.

The fees payable on application for examination for certificates are:— REPRINT WITH NOTES.

First class—Two pounds;
Second class—One pound;
and for copy of certificate—
First class—Five shillings;
Second class—Two shillings and sixpence.

The fee payable on application for a second-class certificate of service is five shillings.

The remuneration of the examiners is defined by a Home Office circular, which will be found in the Appendix, p. 243.

Grant of certificates to applicants on passing examination.

26. (1.) A Secretary of State shall deliver to every applicant who is duly reported by the examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety experience ability and general good conduct, such a certificate of competency as the case requires. The certificate shall be in such form as a Secretary of State from time to time directs.

(2.) A register of the holders of such certificates shall be kept by such person and in such manner as a Secretary of State from time to time directs.

This is a re-enactment of section 30 of the repealed Act.

The provision contained in section 31 of that Act, for the granting of certificates of service to persons who, at the time of the passing of that Act, were acting in the capacity of managers of mines, is not re-enacted; but section 80 of the present Act provides for the granting of such certificates, on the conditions therein named, which are to have the same effect as second-class certificates of competency.

The register of holders of certificates is continued by the present Act (section 79).

A reprint of the register would occupy more than ninety pages of this book, and although our intention at one time was to reprint it, the length has rendered it absolutely impossible.

Inquiry into competency of manager, and cancellation certificate in case of unfitness.

27. If at any time representation is made to a Secretary of State by an inspector or otherwise, that any manager or under-manager holding a certificate under this Act is by reason of incompetency or gross

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negligence unfit to discharge his duties, or has been convicted of an offence against this Act, the Secretary of State may, if he think fit, cause inquiry to be made into the conduct of the manager or under-manager, and with respect to every such inquiry the following provisions shall have effect:

> By section 42 (1), it is provided that if any inspector finds any matter, thing, or practice in or connected with any mine, *or with the control, management, or direction thereof by the manager*, to be dangerous or defective, he may give notice thereof under the section named. The words in italics are new.

(1.) The inquiry shall be public, and shall be held at such place as the Secretary of State may appoint by such county court judge, metropolitan police magistrate, stipendiary magistrate, or other person or persons, as may be directed by the Secretary of State, and either alone or with the assistance of any assessor or assessors named by the Secretary of State:

> In Scotland "county court judge, police magistrate, "stipendiary magistrate, recorder, or registrar of a county "court" means a sheriff or sheriff substitute (section 76), and in Ireland "police or stipendiary magistrate" means resident magistrate.

(2.) The Secretary of State shall, before the commencement of the inquiry, furnish to the manager or under-manager a statement of the case on which the inquiry is instituted:

(3.) Some person appointed by the Secretary of State shall undertake the management of the case:

(4.) The manager or under-manager may attend the inquiry by himself, his counsel, solicitor, or agent, and may, if he thinks fit, be sworn and examined as an ordinary witness in the case:

(5.) The person or persons appointed to hold the inquiry, in this Act referred to as the court, shall, on the conclusion of the inquiry, send to the Secretary

of State a report containing a full statement of the case, and the opinion of the court thereon, and such report of, or extracts from the evidence, as the court may think fit:

(6.) The court shall have power to cancel or suspend the certificate of the manager or under-manager, if it finds that he is by reason of incompetency or gross negligence, or of his having been convicted of an offence against this Act, unfit to discharge his duty:

(7.) The court may, if it thinks fit, require a manager or under-manager to deliver up his certificate, and if any manager or under-manager fails, without sufficient cause to the satisfaction of the court, to comply with such requisition, he shall be liable to a fine not exceeding one hundred pounds. The court shall hold a certificate so delivered until the conclusion of the investigation, and shall then either restore cancel or suspend the certificate according to its judgment on the case:

(8.) The court shall have for the purpose of the inquiry, all the powers of a court of summary jurisdiction, and all the powers of an inspector under this Act:

(9.) The court may also, by summons signed by the court, require the attendance of all such persons as it thinks fit to summon and examine for the purpose of the inquiry; and every person so summoned shall be allowed such expenses as would be allowed to a witness attending on subpœna before a court of record; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to a master of one of Her Majesty's superior courts, who, on request signed by the court, shall ascertain and certify the proper amount of such expenses.

The whole of this section is a re-enactment of section 32 of the former Act, with the addition that it now includes an under-manager.

In Scotland the auditor of the sheriff court of the county or district in which any inquiry takes place is to

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perform the duties of a master of one of the superior courts (section 76), and in Ireland, "master of one of "Her Majesty's superior courts" means a taxing master of the High Court of Justice in Ireland (section 77).

Costs and expenses of inquiry.

28. (1.) The court may make such order as it thinks fit respecting the costs and expenses of the inquiry, and such order shall, on the application of any party entitled to the benefit thereof, be enforced by any court of summary jurisdiction as if such costs and expenses were a fine imposed by that court.

(2.) The Secretary of State may, if he thinks fit, pay to the person or persons constituting the court, including any assessors, such remuneration as he may with the consent of the Treasury appoint.

(3.) Any costs and expenses ordered by the court to be paid by a Secretary of State, and any remuneration paid under this section, shall be paid out of moneys provided by Parliament.

This is a re-enactment, with a slight verbal alteration, of section 33 of the repealed Act. The word "fine" is used instead of "penalty."

Record of cancellation of certificate; restoration in certain cases.

29. (1.) Where a certificate of a manager or under-manager is cancelled or suspended in pursuance of this Act, a Secretary of State shall cause the cancellation or suspension to be recorded in the register of holders of certificates.

(2.) A Secretary of State may at any time, if it is shown to him to be just so to do, renew or restore, on such terms as he thinks fit, any certificate which has been cancelled or suspended in pursuance of this Act, and cause the renewal or restoration to be recorded in the register aforesaid.

The foregoing is a re-enactment of section 34 of the former Act, but it now extends to an under-manager as well as a manager.

The concluding words, providing for the renewal or restoration of a certificate being recorded in the register, are new.

By section 79 it is provided that the registers in force at the commencement of the present Act, under the re-

pealed Acts, are to be deemed to be registers or parts of registers kept in pursuance of this Act. REPRINT WITH NOTES.

Copy of certificate in case of loss.

30. Whenever any person proves to the satisfaction of a Secretary of State that he has, without fault on his part, lost or been deprived of any certificate granted to him under this Act, the Secretary of State shall, on payment of such fee, if any, as he may direct, but not exceeding the fee specified in schedule two to this Act, cause a copy of the certificate to which the applicant appears by the register to be entitled, to be made out and certified by the person who keeps the register, and delivered to the applicant; and any copy which purports to be so made and certified as aforesaid shall have all the effect of the original certificate.

This corresponds with section 35 of the former Act.

The fees to be paid for copies of certificates are for first-class certificates 5*s.*, and for second-class certificates 2*s.* 6*d.*

Expenses in relation to certificates, and application of fees.

31. (1.) All expenses incurred by a Secretary of State with the concurrence of the Treasury in carrying into effect the provisions of this Act with respect to certificates of competency shall be defrayed out of moneys provided by Parliament.

(2.) All fees payable by the applicants for examination for or for a copy of a certificate under this Act shall be paid into the receipt of Her Majesty's Exchequer in such manner as the Treasury may from time to time direct, and be carried to the Consolidated Fund.

This is a re-enactment of section 36 of the former Act, but it only mentions certificates of competency, whilst the former section referred to certificates of competency or service.

Penalty for forgery of, or false declaration as to, certificate.

32. Every person who commits any of the following offences; that is to say,

(1.) Forges, or counterfeits, or knowingly makes any false statement in any certificate of competency under this Act, or in any certificate of service granted under this Act or any Act repealed by this Act, or any official copy of any such certificate; or

(2.) Knowingly utters or uses any such certificate

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or copy which has been forged or counterfeited or contains any false statement; or

(3.) For the purpose of obtaining, for himself or any other person, employment as a certificated manager or under-manager, or the grant renewal or restoration of any certificate under this Act, or a copy thereof, either

(*a.*) makes or gives any declaration representation statement or evidence which is false in any particular, or

(*b.*) knowingly utters, produces, or makes use of any such declaration representation statement or evidence, or any document containing the same,

shall be guilty of a misdemeanour, and be liable on conviction to imprisonment for a term not exceeding two years, with or without hard labour.

This is a re-enactment with slight verbal amendments of section 37 of the former Act, but it now extends to an under-manager as well as to a manager. The provision also extends to certificates of service granted under previous Acts as well as under the present Act.

In Scotland, the term "misdemeanour" means "crime "and offence" (section 76).

RETURNS, PLAN, NOTICES, AND ABANDONMENT.

Returns by owner agent or manager of mine.

33. (1.) On or before the twenty-first day of January in every year the owner agent or manager of every mine shall send to the inspector of the district on behalf of a Secretary of State a correct return, specifying, with respect to the year ending on the preceding thirty-first day of December, the particulars contained in the form in schedule three to this Act, or in such other form as may from time to time be prescribed in lieu of that form by a Secretary of State: Provided that in the case of any mine which is not required by this Act to be under the control of a certificated manager, a return shall not be required of the particulars contained in Part B. of the said form unless or until a Secretary of State otherwise prescribes.

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In the former Act "plan" was not included in this heading, but in a later section, 47.

The return must now be made on the 21st of January in every year instead of the 1st of February as under the former Act, and the return is to give the particulars required in the form given in schedule III., or such other form as the Secretary of State may from time to time prescribe in lieu thereof.

This return is to include the persons ordinarily employed in or about the mine, whether above or below ground, and whether immediately employed by the owner or by any one else under him, under the heads given in the form, which see, schedule III., p. 200.

It is also to include persons employed on sidings and private branch railways, and in cleaning, washing, and coking of coal.

In addition, the return requires the number of days in each month on which coal or ironstone has been drawn.

It will be observed that the particulars required in part B. of the return need not be given in the case of mines not under the control of a certificated manager, unless the Secretary of State otherwise prescribes. See paragraph 2 of general rule No. 1.

The return under this section is to include that provided for by section 69 of the former Act, which was known as the 1st of January return.

(2.) Forms for the purpose of the returns required by this section shall from time to time, on application, be furnished by the inspector of the district on behalf of the Secretary of State.

(3.) The Secretary of State may publish the aggregate results of the returns made under this section with respect to any particular county or inspector's district, or any large portion of a county or inspector's district, and so much of any individual return as does not relate to the quantity of mineral gotten or wrought, but the portion of any individual return relating to the quantity of mineral gotten or wrought shall not be published without the consent of the person making the return, or of the owner of the mine to which it relates; and no person except an inspector or Secretary of State [1]or any body of commissioners incorporated by Act of Parliament for the drainage of mines, and authorised to assess

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and levy rates in respect of minerals gotten from such mines, shall be entitled, without such consent, to see such portion as aforesaid of any individual return.

The words "and so much of any individual return as "does not relate to the quantity of mineral gotten or "wrought" are new. Under the former Act no part of the individual return was to be published without the consent of the person making the same.

[1] This proviso is for the benefit of the Mines Drainage Board of South Staffordshire, which is incorporated under an Act of Parliament. Under the former Act, no one except an inspector or Secretary of State was entitled to see any part of any individual return made under it.

(4.) Every owner agent or manager of a mine who fails to comply with this section or makes any return which is to his knowledge false in any particular shall be guilty of an offence against this Act.

See section 59.

Plan of mine to be kept at office.

34. (1.) The owner agent or manager of every mine shall keep in the office at the mine an accurate plan of the workings of the mine, showing the workings up to a date not more than [1]three months previously, [2]and the general direction and rate of dip of the strata, together with a section of the strata sunk through, or if that be not reasonably practicable, a statement of the depth of the shaft, with a section of the seam.

[1] It was six months in the former Act.

[2] This provision to the end of the sub-section is new.

The former Act only provided for an accurate plan being kept. Under that Act (section 72) "plan" included "a map and section." In the present Act "plan" includes "a correct copy or tracing of an original plan."

(2.) The owner agent or manager of the mine shall, on request at any time of an inspector under this Act, produce to him at the office at the mine such plan and section, and shall also on the like request mark on such plan and section the then state of the workings of the mine; and the inspector shall be entitled to examine the plan and section, and for official purposes only to make a copy of any part thereof respectively.

In the corresponding section of the former Act an inspector was not authorized to make a copy of any part of the plan produced to him. By the present Act, it will be observed, he has power to do so, but "for official "purposes only." The words "on request at any time ". . . . at the office" are new. REPRINT WITH NOTES.

(3.) If the owner agent or manager of any mine fails to keep, or wilfully refuses to produce or allow to be examined, the plan and section aforesaid, or wilfully withholds any portion thereof, [1]or wilfully refuses, on request, to mark thereon the state of the workings of the mine, or conceals any part of those workings, or produces an imperfect or inaccurate plan or section, he shall (unless he shows that he was ignorant of the concealment imperfection or inaccuracy) be guilty of an offence against this Act; and further, the inspector may by notice in writing (whether a penalty for the offence has or has not been inflicted) require the owner agent or manager to cause an accurate plan and section, showing the particulars hereinbefore required, to be made within a reasonable time at the expense of the owner of the mine. [2]Every such plan must be on a scale of not less than that of the Ordnance Survey of twenty-five inches to the mile or on the same scale as the plan for the time being in use at the mine.

[1] The words "or wilfully refuses, on request, to mark "thereon the state of the workings of the mine" are new.

[2] This proviso is new. By the former Act the plan was to be on a scale of not less than two chains to an inch, or on such other scale as the plan then used in the mine.

(4.) If the owner agent or manager fails within twenty days after the requisition of the inspector, [1]or within such further time as may be allowed by a Secretary of State, to cause such plan and section to be made as hereby required, he shall be guilty of an offence against this Act.

[1] The words in the former Act were "or within such "further time as may be shown to be necessary."

See section 59.

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Notice to be given of accidents in mines.

35. (1.) Where in or about any mine, whether above or below ground, either—

(i.) loss of life or any personal injury [1]whatever to any person employed in or about the mine occurs by reason of any explosion of gas, or of any explosive, or of any steam boiler; or

[1] The word "whatever" is new, and the words "or of "any explosive" are substituted for "powder."

(ii.) loss of life or any serious personal injury to any persom employed in or about the mine occurs by reason of any accident whatever,

the owner agent or manager of the mine shall, within twenty-four hours next after the explosion or accident, send notice in writing of the explosion or accident and of the loss of life or personal injury occasioned thereby to the inspector of the district on behalf of a Secretary of State, and shall specify in the notice the character of the explosion or accident and the number of persons killed or injured respectively.

This is as before. As to service of notices, see section 73.

(2.) Where loss of life or serious personal injury has immediately resulted from an explosion or accident, the place where the explosion or accident occurred shall be left as it was immediately after the explosion or accident, until the expiration of at least three days after the sending of such notice as aforesaid of such explosion or accident, or until the visit of the place by an inspector, whichever first happens, unless compliance with this enactment would tend to increase or continue a danger or would impede the working of the mine.

This is a new regulation.

(3.) Where any personal injury, of which notice is required to be sent under this section, results in the death of the person injured, notice in writing of the death shall be sent to the inspector of the district on behalf of a Secretary of State within twenty-four hours after such death comes to the knowledge of the owner agent or manager.

This is as before.

(4.) Every owner agent or manager who fails to act in compliance with this section shall be guilty of an offence against this Act. REPRINT WITH NOTES.

As to "special" reports of explosions or accidents happening in any mine, and formal investigation directed by a Secretary of State into its causes and circumstances, see sections 44 and 45.

As to penalties and how they may be dealt with, see sections 59 and 70.

In the case of Underhill and another *v.* Longridge, under the Coal Mines Regulation Act, 1885 (18 & 19 Vict. c. 108), s. 9, the appellants were the owners of a coal mine in which serious personal injury arose from an explosion. They failed to give notice to the inspector, and were convicted for not having done so under the section named, but this conviction was reversed on appeal, on the ground that section 9 of the Act referred to omitted the words necessary to create the offence. It is clear, however, under the above section that the notice must be sent both of accidents resulting in death and in serious personal injury.

A short report of the case referred to will be found in the Appendix, p. 319.

36. In any of the following cases, namely, Notice to be given of opening and abandonment of mine.

(i.) Where any working is commenced for the purpose of opening a new shaft for [1] or a seam of any mine;

(ii.) Where a shaft or seam of any mine is abandoned or the working thereof discontinued;

(iii.) Where the working of a shaft or a seam of any mine is recommenced after any abandonment or discontinuance for a period exceeding two months; or

(iv.) Where any change occurs in the name of any mine or in the name of the owner agent or manager of any mine to which this Act applies, or in the [2] principal officers of any incorporated company which is the owner of a mine;

the owner agent or manager of the mine shall give notice thereof to the inspector of the district within two months after the commencement abandonment discontinuance recommencement or change, and if such notice

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is not given the owner agent or manager shall be guilty of an offence against this Act.

[1] This is a re-enactment of section 40 of the former Act, but the words "or a seam" are introduced for the first time.

[2] The word "principal" is also new.

The officers here intended are, we presume, the directors and the secretary.

See section 59 as to penalties.

H.M. inspectors of mines have from time to time complained in their annual reports that the various returns required under the corresponding section (40) of the former Act are very much neglected, as also are the returns required under 38 and 69 of that Act (section 33 in the present Act).

Fencing in case of abandoned mine.

37. (1.) Where any mine is abandoned or the working thereof discontinued, at whatever time the abandonment or discontinuance occurred, the owner thereof, and every other person interested in the minerals of the mine, shall cause the top of every shaft and every side entrance from the surface to be and to be kept securely fenced for the prevention of accidents:

Provided that—

(i.) Subject to any contract to the contrary, the owner of the mine shall, as between himself and any other person interested in the minerals of the mine,[1] be liable to carry into effect this section, and to pay any costs [2] charges and expenses incurred by any other person interested in the minerals of the mine in carrying this section into effect:

[1] Some light may perhaps be thrown upon the meaning of the words "any other person interested in the "minerals of the mine" by considering the definition of "owner" in section 75, which gives the persons not included by that section in the term "owner."

See the following cases, a summary of each of which is contained in the Appendix, pp. 319–321:—

Stott *v.* Dickinson, decided under the corresponding section (41) of the Coal Mines Regulation Act, 1872.

Evans *v.* Mostyn, and Arkwright *v.* Evans, decided under a similar section (13) in the Metalliferous Mines Regulation Act, 1872.

[2] "Charges and expenses" new.

(ii.) Nothing in this section shall exempt any person from any liability under any other Act, or otherwise. REPRINT WITH NOTES.

Under the Quarry (Fencing) Act, 1887 (50 & 51 Vict. c. 19), s. 3, it is enacted that "where any quarry dangerous to the public is in open or unenclosed lands "within fifty yards of a highway or place of public resort "dedicated to the public, and is not separated therefrom "by a secure and sufficient fence, it shall be kept reasonably fenced for the prevention of accidents, and unless "so kept shall be deemed to be a nuisance liable to be "dealt with summarily in manner provided by the Public "Health Act, 1875."

And by section 4 the term "quarry" includes every pit or opening made for the purpose of getting stone, slates, lime, chalk, clay, gravel, or sand, but not any natural opening.

The Act does not extend to Scotland and Ireland. There is a provision for fencing also contained in the Metalliferous Mines Act, 1872.

(2.) If any person fails to act in conformity with this section, he shall be guilty of an offence against this Act.

(3.) No person shall be precluded by any agreement from doing, or be liable under any contract to any damages penalty or forfeiture for doing such acts as may be necessary in order to comply with the provisions of this section.

(4.) If any occupier of land or other person wilfully obstructs the owner of a mine or other person interested as aforesaid in doing any such acts, he shall be guilty of an offence against this Act.

Sub-sections 3 and 4 are new.

(5.) Any shaft or side entrance which is not fenced as required by this section, and is within fifty yards of any highway, road, footpath, or place of public resort, or is in open or uninclosed land, shall be deemed to be a nuisance within the meaning of section ninety-one of [1]the Public Health Act, 1875. 38 & 39 Vict. c. 55.

[1] Under the Act of 1872, section 8 of the Nuisances Removal Act for England, 1855, as amended and extended by the Sanitary Act, 1866.

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As to Scotland and Ireland, see sections 76 and 77.

It will be observed, from sub-section 1, that its operation is retrospective, the words being, as in the former Act, "at whatever time the abandonment or discontinuance "occurred." See the case of Stott *v.* Dickinson, a short report of which is contained in the Appendix, p. 319.

Plan of abandoned mine or seam to be sent to Secretary of State.

38. (1.) Where any mine or seam is abandoned, the owner of the mine [1]or seam at the time of its abandonment shall, within three months after the abandonment, send to a Secretary of State an accurate plan showing the boundaries of the workings of the mine or seam up to the time of the abandonment, [2]and the position of the workings with regard to the surfaces, and the general direction and rate of dip of the strata, together with a section of the strata sunk through, or if that is not reasonably practicable, a statement of the depth of the shaft, with a section of the seam. [3]Every such plan must be on a scale of not less than that of the Ordnance Survey of twenty-five inches to the mile, or on the same scale as the plan used at the mine at the time of its abandonment.

[1] The words "or seam" are new.

[2] This provision as to the position of the workings with regard to the surfaces, &c., being shewn, is also new.

[3] The scale is altered as before mentioned.

(2.) The plan and section shall be preserved under the care of the Secretary of State; but no person, except an inspector under this Act, shall be entitled, without the consent of the owner of the mine or seam, to see the plan when so sent until after the expiration of ten years from the time of the abandonment.

This provision was contained in the former Act.
The words "or seam" are new.

(3.) The owner aforesaid shall also, within three months of the abandonment of the mine or seam, send to the inspector of the district, on behalf of a Secretary of State, a correct return specifying, with respect to the period which has elapsed since the expiration of the year covered by the last annual return made under this

Act, the particulars required in that return; and the provisions of this Act with respect to the said annual return shall apply to the return so sent.

This is new.

The return here referred to is the same as that provided for in section 33, and must be in the form contained in schedule III.

(4.) If the owner of a mine or seam fails to comply with this section, he shall be guilty of an offence against this Act, and be liable to a fine not exceeding thirty pounds.

This is new.

The provision in the former Act was as follows:—"Every person who fails to comply with this section "shall be guilty of an offence against this Act."

By section 59 the general penalty enacted for an offence against the Act is not exceeding twenty pounds, but here it is not exceeding thirty pounds.

(5.) A complaint or information of an offence under this section may be made or laid at any time within six months after abandonment of the mine or seam, or after service on the owner aforesaid of a notice to comply with the requirements of this section, whichever last happens.

This also is new. Three months is the time enacted in section 62 for any other complaint or information.

INSPECTION.

Appointment of inspectors of mines.

39. (1.) A Secretary of State may from time to time appoint any fit persons to be inspectors (under whatever title he may from time to time fix[1]) of mines, and assign them their duties, and may award them such salaries as the Treasury may approve, and may remove any such inspector: [2]Provided always, that in the appointment of inspectors of mines in Wales and Monmouthshire among candidates, otherwise equally qualified, persons having a knowledge of the Welsh language shall be preferred.

[1] The words in parentheses are new.

[2] This proviso is also new.

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See section 78 as to inspectors under former Act being continued.

(2.) Notice of the appointment of every such inspector shall be published in the London Gazette.

In Ireland "London Gazette" means "Dublin Gazette" (section 77).

(3.) Every such inspector is referred to in this Act as an inspector, and the inspector of a district means the inspector who is for the time being assigned to the district or portion of the United Kingdom with reference to which the term is used.

35 & 36 Vict. c. 77.

(4.) Any person appointed or acting as inspector under the Metalliferous Mines Regulation Act, 1872, if directed by a Secretary of State to act as an inspector under this Act, may so act, and shall be deemed to be an inspector under this Act.

(5.) The salaries of the inspectors and the expenses incurred by them or by a Secretary of State in the execution of this Act shall continue to be paid out of moneys to be provided by Parliament.

This is a new sub-section.

Disqualification of persons as inspectors.

40. Any person who practises or acts as or is a partner of any person who practises or acts as a land agent or mining engineer, or as a manager viewer agent or valuer of mines, or arbitrator in any difference arising between owners agents or managers of mines, or is otherwise employed in or about any mine, [1]or is a miner's agent or a mine owner (whether the mine is one to which this Act applies or not), shall not act as an inspector of mines under this Act, [2]and no inspector shall be a partner or have any interest direct or indirect in any mine in the district under his charge.

[1] "Or is a miner's agent or a mine owner" is new.
[2] This provision is also new.

Powers of inspectors.

41. An inspector under this Act shall have power to do all or any of the following things; namely,

(i.) To make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act relating to matters above ground or below ground are complied with in the case of any mine:

(ii.) To enter inspect and examine any mine, and every part thereof, at all reasonable times by day and night, but so as not to impede or obstruct the working of the mine:

(iii.) To examine into and make inquiry respecting the state and condition of any mine, or any part thereof, and the ventilation of the mine, and the sufficiency of the special rules for the time being in force in the mine, and all matters and things connected with or relating to the safety of the persons employed in or about the mine or any mine contiguous thereto, [1]or the care and treatment of the horses and other animals used in the mine:

[1] "Or the care and treatment of the horses and other animals used in the mine" is new.

(iv.) To exercise such other powers as may be necessary for carrying this Act into effect.

Every person who wilfully obstructs any inspector in the execution of his duty under this Act, and every owner agent and manager of a mine who refuses or neglects to furnish to the inspector the means necessary for making any entry inspection examination or inquiry under this Act, in relation to the mine, shall be guilty of an offence against this Act.

See section 59 as to penalties.

Notice by inspector of causes of danger not expressly provided against.

42. (1.) If in any respect (which is not provided against by any express provision of this Act, or by any special rule) any inspector finds any mine, or any part thereof, or any matter thing or practice in or connected with any such mine, [1] or with the control, management, or direction thereof by the manager to be dangerous or defective, so as in his opinion to threaten or tend to the bodily injury of any person, he may give notice in writing thereof to the owner agent or manager of the

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mine, and shall state in the notice the particulars in which he considers the mine or any part thereof, or any matter thing or practice, to be dangerous or defective, and require the same to be remedied; and unless the same be forthwith remedied shall also report the same to a Secretary of State.

[1] The words "or with the control, management, or "direction thereof by the manager" are new.

See the case of Reg. *v.* The Spon Lane Colliery Company, Limited, a short report of which is contained in the Appendix, p. 322.

(2.) If the owner agent or manager of the mine objects to remedy the matter complained of in the notice he may, within [1]ten days after receipt of the notice, send his objection in writing, stating the grounds thereof, to a Secretary of State; and thereupon the matter shall be determined by arbitration in manner provided by this Act; and the date of the receipt of the objection shall be deemed to be the date of the reference.

[1] It was "twenty days" in the former Act.

The provisions as to arbitration are contained in section 47.

It has been decided by the Court of Appeal (17th of January 1887) that in an arbitration under section 46 of the former Act, corresponding to the above section of the present Act, the duty of the arbitrator (he was in fact the umpire) is limited to determining whether the matter complained of by the inspector is dangerous and ought to be remedied, and he has no power to determine what is the proper remedy, or to direct that any particular remedy be adopted (H.M. Secretary of State *v.* Fletcher, L. R. 18 Q. B. D. 339; Appendix, p. 323).

The above decision is applicable to the present Act.

(3.) If the owner agent or manager fail, when no objection is sent as aforesaid, to comply with the requisition of the notice within ten days after the expiration of the time for objection, or when there has been an arbitration to comply with the award within the time fixed by the award, he shall be guilty of an offence against this Act, and the notice and award shall

respectively be deemed to be written notice of the offence. REPRINT WITH NOTES.

Provided that the court, if satisfied that the owner agent or manager has taken active measures for complying with the notice or award, but has not, with reasonable diligence, been able to complete the works, may adjourn any proceedings taken before them for punishing the offence, and, if the works are completed within a reasonable time, no penalty shall be inflicted.

(4.) No person shall be precluded by any agreement from doing, or be liable under any contract to any penalty or forfeiture for doing, such acts as may be necessary in order to comply with the provisions of this section.

Sub-sections 3 and 4 substantially re-enact the provisions contained in the former Act, ten days being substituted for twenty days.

43. Every inspector [1]of a district under this Act shall make an annual report of his proceedings during the preceding year to a Secretary of State, which report shall be laid before both Houses of Parliament. Annual reports of inspectors.

[1] "Of a district" is new.

See section 39, sub-section 3, defining inspector of a district.

44. Where in any mine an explosion or accident has caused loss of life or personal injury to any person, a Secretary of State may at any time direct an inspector to make a special report with respect to the explosion or accident. Special reports of inspectors.

This is in effect a re-enactment of the second part of section 48 of the Act of 1872. The power given in that section to a Secretary of State to publish any special report of an inspector is contained in section 46 of the present Act.

45. Where it appears to a Secretary of State that a formal investigation of any explosion or accident and of its causes and circumstances is expedient, the Secretary of State may direct such investigation to be held, Formal investigation when directed by Secretary of State.

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and with respect to any such investigation the following provisions shall have effect:

(1.) The Secretary of State may appoint a competent person to hold the investigation, and may appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the investigation.

(2.) The person or persons so appointed (hereinafter called the court) shall hold the investigation in open court, in such manner and under such conditions as the court may think most effectual for ascertaining the causes and circumstances of the explosion or accident, and enabling the court to make the report in this section mentioned.

(3.) The court shall have for the purpose of the investigation all the powers of a court of summary jurisdiction when acting as a court in hearing informations for offences against this Act, and all the powers of an inspector under this Act, and in addition the following powers; namely,

(*a.*) Power to enter and inspect any place or building the entry or inspection whereof appears to the court requisite for the said purpose:

(*b.*) Power, by summons signed by the court, to require the attendance of all such persons as it thinks fit to call before it and examine for the said purpose, and for that purpose to require answers or returns to such inquiries as it thinks fit to make:

(*c.*) Power to require the production of all books papers and documents which it considers important for the said purpose:

(*d.*) Power to administer an oath and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination:

(4.) Persons attending as witnesses before the court shall be allowed such expenses as would be allowed to witnesses attending before a court of

record; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to a master of one of Her Majesty's superior courts, who on request, signed by the court, shall ascertain and certify the proper amount of the expenses : REPRINT WITH NOTES.

(5.) The court holding an investigation under this section shall make a report to the Secretary of State, stating the causes of the explosion or accident and its circumstances, and adding any observations which the court thinks right to make:

(6.) All expenses incurred in and about an investigation under this section (including the remuneration of any person appointed to act as assessor) shall be deemed to be part of the expenses of the Secretary of State in the execution of this Act.

(7.) Any person who without reasonable excuse (proof whereof shall lie on him) either fails, after having had the expenses (if any) to which he is entitled tendered to him, to comply with any summons or requisition of a court holding an investigation under this section, or prevents or impedes the court in the execution of its duty, shall for every such offence be liable to a fine not exceeding ten pounds, and in the case of a failure to comply with a requisition for making any return or producing any document shall be liable to a fine not exceeding ten pounds for every day that such failure continues.

These provisions are new. They were enacted for the first time in the Coal Mines Act, 1886 (Lord Cross's Act), which, as already stated, is repealed by the present Act, but under that repealed Act it was provided that the investigation should be held by an inspector.

In the Act of 1886 it was provided (2) that the investigation should be held in open court *unless otherwise directed by the Secretary of State.*

The words in italics are omitted from the present Act.

46. The Secretary of State may cause any special report of an inspector or any report of a court under this part of this Act to be made public at such time and in such manner as he may think fit. Publication of reports.

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This proviso was also contained in the Coal Mines Act of 1886.

In substance it is a re-enactment of the second part of section 48 of the Act of 1872.

ARBITRATION.

Provisions as to arbitrations.

47. With respect to arbitrations under this Act, the following provisions shall have effect:

(1.) The parties to the arbitration are in this section deemed to be the owner agent or manager of the mine on the one hand, and the inspector of mines (on behalf of the Secretary of State) on the other:

(2.) Each of the parties to the arbitration may, within fourteen days[1] after the date of the reference, appoint an arbitrator:

[1] Twenty-one days in the former Act.

(3.) No person shall act as arbitrator or umpire under this Act who is employed in or in the management of or is interested in the mine to which the arbitration relates:

(4.) The appointment of an arbitrator under this section shall be in writing, and notice of the appointment shall be forthwith sent to the other party to the arbitration, and shall not be revoked without the consent of that party:

(5.) The death removal or other change in any of the parties to the arbitration shall not affect the proceedings under this section:

(6.) If within the said fourteen days[1] either of the parties fails to appoint an arbitrator, the arbitrator appointed by the other party may proceed to hear and determine the matter in difference, and in that case the award of the single arbitrator shall be final:

[1] Twenty-one days in the former Act.

(7.) If before an award has been made any arbitrator appointed by either party dies or becomes incapable to act, or for seven days[1] refuses or neg-

lects to act, the party by whom such arbitrator was appointed may appoint some other person to act in his place; and if he fails to do so within seven days[1] after notice in writing from the other party for that purpose, the remaining arbitrator may proceed to hear and determine the matter in difference, and in that case the award of the single arbitrator shall be final:

[1] Fourteen days in the former Act.

(8.) In either of the foregoing cases where an arbitrator is empowered to act singly, on one of the parties failing to appoint, the party so failing may, before the single arbitrator has actually proceeded in the arbitration, appoint an arbitrator, who shall then act as if no failure had occurred:

(9.) If the arbitrators fail to make their award within twenty-one days after the day on which the last of them was appointed, or within such extended time (if any) as may have been appointed for that purpose by both arbitrators under their hands, the matter in difference shall be determined by the umpire appointed as hereinafter mentioned:

(10.) The arbitrators, before they enter on the matter referred to them, shall appoint by writing under their hands an umpire to decide on points on which they may differ:

(11.) If the umpire dies or becomes incapable of acting before he has made his award, or refuses to make his award within a reasonable time after the matter has been brought within his cognizance, the persons or person who appointed such umpire shall forthwith appoint another umpire in his place:

(12.) If the arbitrators refuse or fail or for seven days after the request of either party neglect to appoint an umpire, then on the application of either party an umpire [1]may be appointed by the chairman of the general or quarter sessions of the peace within

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the jurisdiction of which the mine [2]or any shaft of the mine is situate:

[1] It was "shall" in the former Act.
[2] "Or any shaft of the mine" is new.

(13.) The decision of every umpire on the matters referred to him shall be final:

(14.) If a single arbitrator fails to make his award within twenty-one days after the day on which he was appointed, the party who appointed him may appoint another arbitrator to act in his place:

(15.) Arrangements shall whenever practicable be made for the matter in difference being heard at the same time before the arbitrators and the umpire:

This is new.

(16.) The arbitrators and the umpire or any of them may examine the parties and their witnesses on oath, and may also consult any counsel engineer or scientific person whom they may think it expedient to consult:

(17.) The payment, if any, to be made to any arbitrator or umpire for his services shall be fixed by the Secretary of State, and together with the costs of the arbitration and award shall be paid by the parties or one of them according as the award may direct. Such costs may be taxed by a master of one of Her Majesty's superior courts, who, on the written application of either of the parties, shall ascertain and certify the proper amount thereof. The amount, if any, payable by the Secretary of State shall be paid as part of the expenses of inspectors under this Act. The amount, if any, payable by the owner agent or manager may in the event of non-payment be recovered in the same manner as fines[1] under this Act:

[1] "Penalties" in the former Act.

(18.) Every person who is appointed an arbitrator under this section shall be a practical mining engi-

neer, or a person accustomed to the working of mines, [1]and every person who is appointed an umpire under this section shall be a county court judge, a police or stipendiary magistrate, a recorder of a borough, or a registrar of a county court, but when an award has been made under this section the arbitrator or umpire who made it shall be deemed to have been duly qualified as provided by this section.

[1] This proviso as to the qualification of an umpire is new.

As to Scotland and Ireland, see sections 76 and 77.

With the exceptions indicated, this section is a re-enactment of the provisions as to arbitration contained in section 49 of the former Act.

See note to section 42 as to the case of the Secretary of State *v.* Fletcher, ante, p. 144.

CORONERS.

Provisions as to coroners' inquests on deaths from accidents in mines.

48. With respect to coroners' inquests on the bodies of persons whose death may have been caused by explosions or accidents in [1]or about mines, the following provisions shall have effect:

[1] The words "or about" are new.

(1.) Where a coroner holds an inquest on the body of any person whose death may have been caused by any explosion or accident, of which notice is required by this Act to be given to the inspector of the district, the coroner shall adjourn the inquest unless an inspector, or some person on behalf of a Secretary of State, is present to watch the proceedings:

(2.) The coroner, at least four days before holding the adjourned inquest, shall send to the inspector for the district notice in writing of the time and place of holding the adjourned inquest:

(3.) The coroner, before the adjournment, may take evidence to identify the body, and may order the interment thereof:

(4.) If an explosion or accident has not occasioned

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the death of more than one person, and the coroner has sent to the inspector of the district notice of the time and place of holding the inquest [1]at such time as to reach the inspector not less than [2]twenty-four hours before the time of holding the same, it shall not be imperative on him to adjourn the inquest in pursuance of this section, if the majority of the jury think it unnecessary so to adjourn:

[1] "At such time as to reach the inspector" is new.
[2] Forty-eight hours in the former Act.

(5.) An inspector shall be at liberty at any such inquest to examine any witness, subject nevertheless to the order of the coroner:

(6.) Where evidence is given at an inquest at which an inspector is not present of any neglect as having caused or contributed to the explosion or accident, or of any defect in or about the mine appearing to the coroner or jury to require a remedy, the coroner shall send to the inspector of the district notice in writing of such neglect or defect[1]:

[1] The word "default" was used in the former Act.
If the coroner neglects the duty imposed by this sub-section, he will incur a penalty under the Act. By section 65, no prosecution can be instituted against a coroner for any offence under the Act except with the consent, in writing, of a Secretary of State.

(7.) Any person having a personal interest in or employed in or in the management of the mine in which the explosion or accident occurred shall not be qualified to serve on the jury empanelled on the inquest; and it shall be the duty of the constable or other officer not to summon any person disqualified under this provision, and it shall be the duty of the coroner not to allow any such person to be sworn or to sit on the jury:

It will be the duty of the coroner under this sub-section to see that the persons empanelled for the jury are duly qualified to serve.

The constable or other officer summoning the jury will also incur a penalty under the Act if he fails to comply with the provision. REPRINT WITH NOTES.

(8.) Any relative of any person whose death may have been caused by the explosion or accident with respect to which the inquest is being held, and the owner agent or manager of the mine in which the explosion or accident occurred, and any person appointed by the order in writing of the majority of the workmen employed at the said mine, shall be at liberty to attend and examine any witness, either in person or by his counsel, solicitor, or agent, subject nevertheless to the order of the coroner.

Every person who fails to comply with the provisions of this section shall be guilty of an offence against this Act.

Sub-section 8 is an extension of the provision contained in the Coal Mines Act, 1886. With this exception, and the alterations already indicated, the section re-enacts the former provisions on the subject of coroners.

It will be the duty of the coroner to see that the persons claiming to attend and examine witnesses are entitled to do so in accordance with the sub-section.

As to penalty for offence against the Act, see section 59.

PART II.

RULES.

GENERAL RULES.

49. The following general rules shall be observed, so far as is reasonably practicable, in every mine: General Rules.

It has been decided that the expression "reasonably "practicable" does not relate to the carrying on of the mine as a profitable concern, but to physical or engineering difficulties in the way of carrying out the rules (Wales *v.* Thomas, 16 Q. B. D. 340; Appendix, p. 316).

As to contravention or non-compliance with any of the

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General Rules by any person whomsoever, and liability of the owner, agent, and manager in respect thereof, see section 50, and for penalties, sections 59 and 60.

Ventilation of mine.

Rule 1. An adequate amount of ventilation shall be constantly produced in every mine to dilute and render harmless noxious gases to such an extent that the working places of the shafts, levels, stables, and workings of the mine, and the travelling roads to and from those working places shall be in a fit state for working and passing therein.

In the case of mines required by this Act to be under the control of a certificated manager, the quantity of air in the respective splits or currents shall at least once in every month be measured and entered in a book to be kept for the purpose at the mine.

It was decided in the case of Brough *v.* Homfray that it was not sufficient compliance with this rule to cause ventilation to pass along the working places and travelling roads, but that so much of the mine must be kept so ventilated as to render the working places and travelling roads safe (L. R. 3 Q. B. D. 771; Appendix, p. 326).

Sufficient ventilation is to be constantly produced, and it is not to be suspended during temporary cessations of work, as, for example, at night, or on Sundays and other proper days of rest, for during all these times the mine is to be considered as continuing at work (Knowles *v.* Dickinson, 29 L. J. [N. S.] M. C. 135, 2 E. & E. 705, 6 Jur. N. S. 678, 8 W. R. 411; Appendix, p. 326).

Though both the foregoing decisions were given under the Act of 1860, they appear equally applicable to the present Act.

The first part of the rule is a re-enactment of the 1st general rule under the Act of 1872.

The second part of the rule is new. A form of report book for the purpose of entering the monthly measurements will be found in the Appendix, p. 260.

It is provided by rule 37 that all necessary books required by the rules are to be provided by the owner, agent, or manager, and that the books, or a correct copy thereof, are to be kept at the office at the mine, and open to inspection.

As to penalties, see sections 59 and 60.

Rule 2. Where a fire is used for ventilation in any

mine newly opened after the passing of this Act, the return air, unless it be so diluted as not to be inflammable, shall be carried off clear of the fire by means of a dumb drift or air-way. REPRINT WITH NOTES.

This is a new rule, and, as will be seen, applies only to mines newly opened after the passing of this Act.

Rule 3. Where a mechanical contrivance for ventilation is introduced into any mine after the commencement of this Act, it shall be in such position and placed under such conditions as will tend to insure its being uninjured by an explosion.

This is also a new rule.
It will not necessitate an alteration of ventilating fans in use before the 1st of January 1888, but the rule must be borne in mind before erecting ventilating fans in the future.

Rule 4. A station or stations shall be appointed at the entrance to the mine, or to different parts of the mine, as the case may require; and the following provisions shall have effect: Stations and inspection of condition as to ventilation, &c.

(i.) As to inspection before commencing work:—

A competent person or competent persons appointed by the owner agent or manager for the purpose not being contractors for getting minerals in the mine shall, within such time immediately before the commencement of each shift as shall be fixed by special rules made under this Act, inspect every part of the mine situate beyond the station or each of the stations, and in which workmen are to work or pass during that shift and shall ascertain the condition thereof so far as the presence of gas ventilation, roof and sides, and general safety are concerned.

No workman shall pass beyond any such station until the part of the mine beyond that station has been so examined and stated by such competent person to be safe.

The inspection shall be made with a locked safety lamp, except in the case of any mine in which inflam-

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mable gas has not been found within the preceding twelve months.

A report specifying where noxious or inflammable gas, if any, was found present, and what defects (if any) in roofs or sides, and what (if any) other source of danger were or was observed, shall be recorded without delay in a book to be kept at the mine for the purpose, and accessible to the workmen, and such report shall be signed by, and so far as the same does not consist of printed matter shall be in the handwriting of the person who made the inspection.

For the purpose of the foregoing provisions of this rule, two or more shifts succeeding one another without any interval are to be deemed to be one shift.

(ii.) As to inspection during shifts:—

A similar inspection shall be made in the course of each shift of all parts of the mine in which workmen are to work or pass during that shift, but it shall not be necessary to record a report of the same in a book: Provided that in the case of a mine worked continuously throughout the twenty-four hours by a succession of shifts, the report of one of such inspections shall be recorded in manner above required.

This new rule is in place of the former general rules 2, 3, and 5.

The former rule 2 provided for the inspection, with a locked safety lamp, once in every twenty-four hours if one shift was employed, and once in every twelve hours if two shifts were employed, in every mine in which inflammable gas had been found within the preceding twelve months.

The former general rule 3 provided, in cases where such gas had not been found, for an inspection (but not with a locked safety lamp) once in twenty-four hours; such inspection was, under that rule, to be made, as far as reasonably practicable, *immediately* before the time for commencing work.

The former rule 5 provided for the appointment of lamp stations.

It will be observed in the above rule, part i., relating to inspection before commencing work, that a locked safety

lamp can only be dispensed with in the case of a mine in which inflammable gas has not been found within the preceding twelve months. The inspection is to be made within such time immediately before the commencement of each shift as shall be fixed by the special rules.

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It must now deal with the condition of the mine as to the presence of gas, the state of the roof and sides, and the condition as to general safety, as well as to ventilation.

The report book must be kept at the mine, and be accessible to the workmen, and must be in the handwriting of, and signed by, the person who made the inspection, who must not be a contractor for getting minerals in the mine. See also rule 37, providing for report books or copies being kept at the office.

It will be seen that the second part of the rule deals with inspection during shifts. The reports of these inspections need not be recorded, except where a mine is working continuously throughout the twenty-four hours by a succession of shifts, in which case the report of one of such inspections must be recorded. See general rule 12 (*g*).

A form of report book will be found in the Appendix, p. 262.

Inspection of machinery, &c. above and below ground.

Rule 5. A competent person or competent persons appointed by the owner agent or manager for the purpose, shall, once at least in every twenty-four hours, examine the state of the external parts of the machinery, the state of the guides and conductors in the shafts, and the state of the head gear, ropes, chains, and other similar appliances of the mine which are in actual use both above ground and below ground, and shall once at least in every week examine the state of the shafts by which persons ascend or descend; and shall make a true report of the result of such examination, and every such report shall be recorded without delay in a book to be kept at the mine for the purpose, and shall be signed by the person who made the inspection.

This rule contains in substance the provisions of the former general rule 29, but in that rule the words "working places, levels, planes" were used, and the guides and conductors in the shafts were only to be examined once a week instead of once in every twenty-four hours as now necessary.

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A form of report book is given in the Appendix, p. 266.

A competent person or persons should be appointed, and the necessary report book should be provided.

Fencing of entrances.

Rule 6. Every entrance to any place which is not in actual use or course of working and extension, shall be properly fenced across the whole width of the entrance, so as to prevent persons inadvertently entering the same.

This is a re-enactment of the former general rule 4, with the addition that the words "use or" are added.

Withdrawal of workmen in case of danger.

Rule 7. If at any time it is found by the person for the time being in charge of the mine, or any part thereof, that by reason of inflammable gases prevailing in the mine, or that part thereof, or of any cause whatever, the mine or that part is dangerous, every workman shall be withdrawn from the mine or part so found dangerous, and a competent person appointed for the purpose shall inspect the mine or part so found dangerous, and if the danger arises from inflammable gas shall inspect the mine or part with a locked safety lamp; and in every case shall make a true report of the condition of the mine or part; and a workman shall not, except in so far as is necessary for inquiring into the cause of danger or for the removal thereof, or for exploration, be re-admitted into the mine, or part so found dangerous, until the same is stated by [1]the person appointed as aforesaid not to be dangerous. Every such report shall be recorded in a book which shall be kept at the mine for the purpose, and shall be signed by the person who made the inspection.

This is a re-enactment of the former general rule 6, the word "inflammable" being substituted for "noxious."

[1] In the former Act the words were "such report."

See Reg. *v.* Spon Lane Colliery Company (3 Q. B. D. 673), a short report of which is contained in the Appendix, p. 322.

As to the meaning of the expression "or any part "thereof," see the case of Wales *v.* Thomas, 16 Q. B. D. 340, noted in the Appendix, p. 316.

See also section 19 as to division of mine into parts.

A form of report book is given in the Appendix, p. 268.

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Use of safety lamps in certain places.

Rule 8. No lamp or light other than a locked safety lamp shall be allowed or used—

(*a.*) In any place in a mine in which there is likely to be any such quantity of inflammable gas as to render the use of naked lights dangerous; or

(*b.*) In any working approaching near a place in which there is likely to be an accumulation of inflammable gas.

And when it is necessary to work the coal in any part of a ventilating district with safety lamps, it shall not be allowable to work the coal with naked lights in another part of the same ventilating district situated between the place where such lamps are being used and the return air-way.

This is a new rule.

"Ventilating district" means "such part of a mine as "has an independent intake, commencing from a main "intake air-course, and an independent return air-way, "terminating at a return air-course"—Rule 12 (*k*).

Construction of safety lamps.

Rule 9. Wherever safety lamps are used, they shall be so constructed that they may be safely carried against the air current ordinarily prevailing in that part of the mine in which the lamps are for the time being in use, even though such current should be inflammable.

This is a new rule.

Examination of safety lamps.

Rule 10. In any mine or part of a mine in which safety lamps are required by this Act or by the special rules made in pursuance of this Act to be used—

(i.) A competent person appointed by the owner agent or manager for the purpose, shall, either at the surface or at the appointed lamp station, examine every safety lamp immediately before it is taken into the workings for use, and ascertain it to be in safe working order and securely locked; and such lamps shall not be used until they have been so examined and found in safe working order and securely locked:

(ii.) A safety lamp shall not be unlocked except

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The decisions in two cases as to defective weighing machines under the Weights and Measures Act of 5 & 6 Will. IV. c. 63, are given in the Appendix, p. 316.

(3.) The inspector shall also inspect and examine the measures and gauges in use at the mines within his district; but nothing in this section shall prevent or interfere with the use of the measures or gauges ordinarily used at the mine.

(4.) An inspector may, for the purposes of this section, without any authorisation from a justice of the peace, exercise at or in any mine, as respects all weights, measures, scales, balances, steelyards, and weighing machines used or in the possession of any person for use at or in that mine, all such powers as he could exercise, if authorised in writing by a justice of the peace, under section forty-eight of the Weights and Measures Act, 1878, with respect to any such weights, measures, scales, balances, steelyards, and weighing machines as therein mentioned; and all the provisions of that section, including the liability to penalties, shall apply to such inspection.

Under section 48 of the Weights and Measures Act, 1878, an inspector must be authorized, in writing, under the hand of a justice of the peace, but it will be noticed that in the above section such authorization is not necessary.

The purport of section 48 of the Weights and Measures Act, 1878, is set out in the Introduction to this work, p. 22. The section itself is reprinted in the Appendix, p. 254.

(5.) The inspector of weights and measures shall not, in fulfilling the duties required of him under this section, impede or obstruct the working of the mine.

This provision was contained in the former Act.

SINGLE SHAFTS.

Prohibition of single shafts.

16. (1.) After the commencement of this Act the owner agent or manager of a mine shall not employ any person in the mine, or permit any person to be in the mine for the purpose of employment therein, unless the

following conditions respecting shafts or outlets are complied with, that is to say,— REPRINT WITH NOTES.

(*a.*) There must be at least two shafts or outlets, with which every seam for the time being at work in the mine shall have a communication, so that such shafts or outlets shall afford separate means of ingress and egress available to the persons employed in every such seam, whether the shafts or outlets belong to the same mine or to more than one mine:

In the former Act the word "distinct" was used instead of "separate;" otherwise the provision is substantially the same as before.

See section 18 as to exceptions from provisions as to single shafts.

(*b.*) Such shafts or outlets must not at any point be nearer to one another than fifteen yards; and there shall be between such two shafts or outlets a communication not less than four feet wide and three feet high, and in the case of communications made after the commencement of this Act between shafts or outlets, not less than four feet high.

In the former Act it was provided that the shafts or outlets were to be "separated by natural strata of not "less than ten feet in breadth."

Now in the case of shafts commenced to be sunk after the 1st of January 1888, they are not at any point to be nearer one another than fifteen yards.

The dimensions of existing communications are not altered, but communications made after the 1st of January 1888 are not to be less than four feet high.

The proviso contained in the former Act that the separation should not be deemed incomplete by reason only that openings through the strata between the two shafts had been made for temporary purposes, &c., is not re-enacted.

See section 18 for exceptions and power of exemption by a Secretary of State.

(*c.*) Proper apparatus for raising and lowering persons at each such shaft or outlet shall be kept on the works belonging to the mine; and such apparatus if

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not in actual use at the shafts or outlets, shall be constantly available for use.

This was also provided for in the former Act, but the word "constantly" has been added. Care should be taken to have this proper apparatus constantly available for use.

(2.) Every owner agent and manager of a mine who acts in contravention of or fails to comply with this section shall be guilty of an offence against this Act.

See sections 50, 59, and 60.

(3.) Any of Her Majesty's superior courts, whether any other proceedings have or have not been taken, may, on the application of the Attorney General,[1] prohibit by injunction the working of any mine in which any person is employed, or is permitted to be for the purpose of employment, in contravention of this section, and may award such costs in the matter of the injunction as the court thinks just; but this provision shall be without prejudice to any other remedy permitted by law for enforcing the provisions of this Act.

[1] The Lord Advocate in Scotland and the Attorney-General for Ireland in Ireland.

(4.) Written notice of the intention to apply for such injunction in respect of any mine shall be given to the owner agent or manager of the mine not less than ten days before the application is made.

The foregoing sub-sections 2, 3, and 4 are re-enactments of provisions contained in the former Act.

Agreements not to preclude compliance with Act.

17. No person shall be precluded by any agreement from doing such acts as may be necessary for providing a second shaft or outlet to a mine, where the same is required by this Act, or be liable under any contract to any penalty or forfeiture for doing such acts as may be necessary in order to comply with the provisions of this Act with respect to shafts or outlets.

This proviso was contained in section 21 of the former Act.

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Exceptions from provisions as to shafts.

18. The foregoing provisions of this Act with respect to shafts or outlets shall not apply—

(i.) In the case of a new mine being opened—

(*a*) to any working for the purpose of making a communication between two or more shafts; or

(*b*) to any working for the purpose of searching for or proving minerals;

so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connexion with a single shaft or outlet: nor

> The expression "a single shaft" is used instead of "each shaft," as in the former Act.

(ii.) To any proved mine so long as it is exempted by order of a Secretary of State on the ground either—

(*a*) that the quantity of mineral proved is not sufficient to repay the outlay which would be occasioned by sinking or making a second shaft or outlet, [1]or by establishing communication with a second shaft or outlet, in any case where such communication existed and has become unavailable; or

(*b*) that the workings in any seam of the mine have reached the boundary of the property or the extremity of the mineral field of which that seam is a part, and that it is expedient to work away the pillars already formed in course of the ordinary working, notwithstanding that one of the shafts or outlets may be cut off by so working away the pillars of that seam;

and so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connection with [2]a single shaft or outlet; nor

> [1] These words to the end of (*a*) are new.
>
> [2] This is the same as in the former Act, but the words "a single shaft" are substituted for "the shaft."
>
> As to powers of exemption by a Secretary of State, see sections 72 and 79.

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(iii.) To any mine—

(*a*) while a shaft is being sunk, or an outlet being made;[1] or

(*b*) one of the shafts or outlets of which has become, by reason of some accident, unavailable for the use of the persons employed in the mine;

so long as the mine is exempted by order of a Secretary of State, and as the conditions (if any) annexed to the order of exemption are duly observed. The provision in this Act requiring the two shafts or outlets of a mine to be separated by a distance of not less than fifteen yards shall not apply to any mine which is provided with two shafts sunk before the first day of January one thousand eight hundred and sixty five but at that time separated by a distance of less than ten feet, or commenced to be sunk before the commencement of this Act but separated by a distance of more than ten feet and less than fifteen yards.[2]

The foregoing provisions of this Act as to the dimensions of the communication between two shafts or outlets shall not apply to any mine or class of mines so long as the same is exempted therefrom by order of a Secretary of State by reason of the thinness of the seams or other exigencies affecting that mine or class of mines, and so long as the conditions (if any) annexed to the order of exemption are duly observed.[3]

[1] These words are new, and carry out more clearly than the Act of 1872 what was intended by that Act.

[2] New, and necessary to protect existing shafts and outlets.

[3] New, and inserted for the protection of thin mines.

Sections 23 and 24 of the former Act, postponing temporarily the provisions of that statute compelling double shafts and outlets, and for the extension of that time by a Secretary of State, are omitted, having been repealed by the Statute Law Revision Act, 1883 (46 & 47 Vict. c. 39).

DIVISION OF MINE INTO PARTS.

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19. (1.) Where two or more parts of a mine are worked separately, the owner agent or manager of the mine may give notice in writing to that effect to the inspector of the district, and thereupon each such part shall, for all the purposes of this Act, be deemed to be a separate mine. Division of mine into parts.

The former Act provided that the notice was to be given by the owner or agent.

For the provisions as to notices under the Act, see section 73.

(2.) If a Secretary of State is of opinion that the division of a mine in pursuance of this section tends to lead to evasion of the provisions of this Act, or otherwise to prevent the carrying of this Act into effect, he may object to the division by notice served on the owner agent or manager of the mine; and the owner agent or manager, if he declines to acquiesce in such objection, may, within twenty days after receipt of the notice, send a notice to the inspector of the district stating that he declines so to acquiesce, and thereupon the matter shall be determined by arbitration [1]in manner provided by this Act; and the date of the receipt of the last-mentioned notice shall be deemed to be the date of the reference.

Under this Act the notice of objection may be served on the owner, agent, or manager; otherwise the section corresponds with section 25 of the former Act.

[1] Section 47 relates to arbitration.

In a case decided in the Queen's Bench Division on the 6th of November 1886 it was held that the expression "part of the mine" used in general rule 8 ("Gunpowder "and Blasting") in the former Act did not mean the neighbourhood where the gunpowder would be used, but such a part of the mine as could be treated by the statute as a separate mine (Wales *v.* Thomas, L. R. 16 Q. B. D. 340).

CERTIFICATED MANAGERS.

20. (1.) Every mine shall be under a manager, who shall be responsible for the control, management, and Appointment of manager of mine.

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direction of the mine, and the owner or agent of every such mine shall nominate himself or some other person to be the manager of such mine, and shall send written notice to the inspector of the district of the manager's name and address.

The former Act provided that every mine should be under the "control and daily supervision" of a manager. The words in the above section "who shall be responsible "for the control, management, and direction of the mine" are now substituted.

It will be observed that the next section (21) provides for "daily personal supervision" being exercised.

(2.) A person shall not be qualified to be a manager of a mine unless he is for the time being registered as the holder of a [1] first class certificate under this Act.

[1] The expression "first class" is new. For the definition of this expression see section 23 (1). Certificates of competency or of service under the former Act, and in force immediately before the 1st of January 1888, are to be deemed first-class certificates under this Act (section 79).

(3.) If any mine is worked for more than fourteen days without there being such a manager for the mine as is required by this section, the owner and agent of the mine shall each be liable to a fine not exceeding fifty pounds, and to a further fine not exceeding ten pounds for every day during which the mine is so worked.

Provided that—

(*a.*) The owner of the mine shall not be liable to any such fine if he proves that he had taken all reasonable means by the enforcement of this section to prevent the mine being worked in contravention of this section;

The agent is not protected by this section.

(*b.*) If for any reasonable cause there is for the time being no manager of a mine qualified as required by this section, the owner or agent of the mine may appoint any competent person not holding a certifi-

cate under this Act to be manager, for a period not exceeding two months or such longer period as may elapse before such person has an opportunity [1]in the district wherein the mine is situate of obtaining by examination a certificate under this Act, and shall send to the inspector of the district a written notice of the manager's name and address, and of the reason for his appointment; and

[1] The words "in the district wherein the mine is "situate" are new.

This section appears to contemplate the appointment of only such persons as propose to obtain a certificate of competency of the first class.

(*c.*) A mine in which not more than thirty persons are employed below ground shall be exempt from the provisions of this section, [1]unless the inspector of the district, by notice in writing served on the owner or agent of the mine, requires that it be under the control of a manager.

[1] In the former Act the words "or of which the "average output does not exceed twenty-five tons" occurred, but they have been omitted from the present Act.

Daily supervision of mine by manager or under-manager.

21. (1.) In every mine required by this Act to be under the control of a certificated manager, daily personal supervision shall be exercised either by the manager, or by an under-manager nominated in writing by the owner or agent of the mine.

This is new, and is in place of section 26 of the former Act, the words "daily personal supervision" being substituted for "control and daily supervision" in that Act. Under-managers were not named in the former Act.

In the case of Plant *v.* The Cheadle Valley Coal and Iron Company, decided, under the former Act, in the Queen's Bench Division on the 29th of November 1882, before Lord Chief Justice Coleridge and Mr. Justice Stephen, Lord Coleridge, in giving judgment, said that it was clear from the true construction of the Act that it was the duty of the manager to be in the mine day by day to supervise it, and when he undertook this most onerous duty—for onerous indeed it was—if he desired

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at any time to be away, then the Act required that he should provide some other certificated colliery manager to fill his place during the period of his absence.

A short report of this case is contained in the Appendix, p. 317.

(2.) Every person[1] so nominated must hold either a first class or second class certificate under this Act, and shall, in the absence of the manager, have the same responsibility, and be subject to the same liabilities as the manager under this Act; but the nomination of an under-manager shall not affect the personal responsibility of the manager under this Act.

[1] That is, every under-manager.

Second-class certificates as under-managers may be either certificates of competency by examination (the examination and qualifications of applicants being suitable for practical working miners—section 24) or certificates of service, the qualifications for which are that the candidate must, at any time within five years before the 16th of September 1887, for a period of not less than twelve months, have exercised functions substantially corresponding to those of an under-manager in a mine (section 80). Full instructions as to applying for those certificates will be found in the Appendix at pp. 232–238.

See also the remarks in the Introduction as to the communication from the Home Office, p. 33.

Disqualifications for post of manager or under-manager.

22. A contractor for mineral, or person employed by such a contractor, is not eligible for the post of manager or under-manager under this Act.

This disqualification was also contained in section 26 of the former Act.

Constitution of board for appointing examiners for granting certificates of competency to managers and under-managers.

23. (1.) There shall be two descriptions of certificates of competency under this Act, (i) first class certificates, that is to say, certificates of fitness to be manager; and (ii) second class certificates, that is to say, certificates of fitness to be under-manager; but no person shall be entitled to a certificate under this Act unless he shall have had practical experience in a mine for at least five years.

This provision for second-class certificates as under-managers is new.

Certificates, both of competency and of service, granted under the former Act and in force immediately before the 1st of January 1888, are to be deemed first-class certificates under the present Act (section 79).

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(2.) For the purpose of granting in any part of the United Kingdom, to be from time to time defined by an order of a Secretary of State, certificates of competency for the purposes of this Act, examiners shall be appointed by a board consisting of—

(*a.*) Three persons being owners of mines in the said part of the United Kingdom; and

(*b.*) Three persons employed or who have been employed in or about any mine in the said part of the United Kingdom, not being owners agents or managers of a mine; and

(*c.*) Three persons practising as mining engineers agents or managers of mines, or coal viewers in the said part of the United Kingdom; and

(*d.*) One inspector under this Act.

The constitution of the Examination Boards remains the same as before, with the exception that the words "or who have been employed" are new. Section 78 expressly provides that the Examination Boards appointed under the repealed Act are to be continued as if appointed under the present Act. The secretaries of the various Boards have also been continued by the Home Secretary.

(3.) The members of the board shall be appointed and may be removed by a Secretary of State, and shall hold office during his pleasure.

The words used in the former Act (section 27) were "a "Secretary of State may, from time to time, appoint, "remove, and re-appoint fit persons to form such Board."

24. (1.) The proceedings of each board shall be in accordance with the rules contained in schedule one to this Act.

Proceedings and powers of board for appointing examiners.

These rules are the same as were contained in schedule II. of the former Act with the exception of the first one, for which the following is substituted:—

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"(*a.*) Any regulations made by the Board consti-
"tuted under the Acts repealed by this Act, and in
"force at the commencement of this Act, shall continue
"in force until repealed or altered by the Board."

(2.) Each board shall from time to time appoint examiners, not being members of the board, except with the consent of the Secretary of State, to conduct the examinations in the part of the United Kingdom for which the board acts, of applicants for certificates of competency under this Act, and may from time to time make alter and revoke rules as to the conduct of such examinations and the qualifications of the applicants, so, however, that in every such examination regard shall be had to such knowledge as is necessary for the practical working of mines in that part of the United Kingdom, [1] and that the examination and qualifications of applicants for second class certificates shall be suitable for practical working miners.

[1] These latter words are new.

(3.) Each board shall make from time to time to a Secretary of State a report of their proceedings, and of such other matters as a Secretary of State may from time to time require.

A similar provision, except that the words "report "and return" were used, was contained in the former Act.

The forms of application for certificates are given in the Appendix, pp. 234–238.

Rules by Secretary of State as to examinations.

25. A Secretary of State may from time to time make alter and revoke rules as to the places and times of examinations of applicants for certificates of competency under this Act, the number and remuneration of the examiners, and the fees to be paid by the applicants, so that the fees do not exceed those specified in schedule two to this Act. Every such rule shall be observed by every board appointed under this Act to which it applies.

This is a re-enactment of section 29 of the former Act, schedule II. being substituted for schedule I.

The fees payable on application for examination for certificates are:— REPRINT WITH NOTES.

First class—Two pounds;
Second class—One pound;
and for copy of certificate—
First class—Five shillings;
Second class—Two shillings and sixpence.

The fee payable on application for a second-class certificate of service is five shillings.

The remuneration of the examiners is defined by a Home Office circular, which will be found in the Appendix, p. 243.

Grant of certificates to applicants on passing examination.

26. (1.) A Secretary of State shall deliver to every applicant who is duly reported by the examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety experience ability and general good conduct, such a certificate of competency as the case requires. The certificate shall be in such form as a Secretary of State from time to time directs.

(2.) A register of the holders of such certificates shall be kept by such person and in such manner as a Secretary of State from time to time directs.

This is a re-enactment of section 30 of the repealed Act.

The provision contained in section 31 of that Act, for the granting of certificates of service to persons who, at the time of the passing of that Act, were acting in the capacity of managers of mines, is not re-enacted; but section 80 of the present Act provides for the granting of such certificates, on the conditions therein named, which are to have the same effect as second-class certificates of competency.

The register of holders of certificates is continued by the present Act (section 79).

A reprint of the register would occupy more than ninety pages of this book, and although our intention at one time was to reprint it, the length has rendered it absolutely impossible.

Inquiry into competency manager, cancelli certific case o ness.

27. If at any time representation is made to a Secretary of State by an inspector or otherwise, that any manager or under-manager holding a certificate under this Act is by reason of incompetency or gross

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negligence unfit to discharge his duties, or has been convicted of an offence against this Act, the Secretary of State may, if he think fit, cause inquiry to be made into the conduct of the manager or under-manager, and with respect to every such inquiry the following provisions shall have effect:

> By section 42 (1), it is provided that if any inspector finds any matter, thing, or practice in or connected with any mine, *or with the control, management, or direction thereof by the manager*, to be dangerous or defective, he may give notice thereof under the section named. The words in italics are new.

(1.) The inquiry shall be public, and shall be held at such place as the Secretary of State may appoint by such county court judge, metropolitan police magistrate, stipendiary magistrate, or other person or persons, as may be directed by the Secretary of State, and either alone or with the assistance of any assessor or assessors named by the Secretary of State:

> In Scotland "county court judge, police magistrate, "stipendiary magistrate, recorder, or registrar of a county "court" means a sheriff or sheriff substitute (section 76), and in Ireland "police or stipendiary magistrate" means resident magistrate.

(2.) The Secretary of State shall, before the commencement of the inquiry, furnish to the manager or under-manager a statement of the case on which the inquiry is instituted:

(3.) Some person appointed by the Secretary of State shall undertake the management of the case:

(4.) The manager or under-manager may attend the inquiry by himself, his counsel, solicitor, or agent, and may, if he thinks fit, be sworn and examined as an ordinary witness in the case:

(5.) The person or persons appointed to hold the inquiry, in this Act referred to as the court, shall, on the conclusion of the inquiry, send to the Secretary

of State a report containing a full statement of the case, and the opinion of the court thereon, and such report of, or extracts from the evidence, as the court may think fit:

(6.) The court shall have power to cancel or suspend the certificate of the manager or under-manager, if it finds that he is by reason of incompetency or gross negligence, or of his having been convicted of an offence against this Act, unfit to discharge his duty:

(7.) The court may, if it thinks fit, require a manager or under-manager to deliver up his certificate, and if any manager or under-manager fails, without sufficient cause to the satisfaction of the court, to comply with such requisition, he shall be liable to a fine not exceeding one hundred pounds. The court shall hold a certificate so delivered until the conclusion of the investigation, and shall then either restore cancel or suspend the certificate according to its judgment on the case:

(8.) The court shall have for the purpose of the inquiry, all the powers of a court of summary jurisdiction, and all the powers of an inspector under this Act:

(9.) The court may also, by summons signed by the court, require the attendance of all such persons as it thinks fit to summon and examine for the purpose of the inquiry; and every person so summoned shall be allowed such expenses as would be allowed to a witness attending on subpœna before a court of record; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to a master of one of Her Majesty's superior courts, who, on request signed by the court, shall ascertain and certify the proper amount of such expenses.

The whole of this section is a re-enactment of section 32 of the former Act, with the addition that it now includes an under-manager.

In Scotland the auditor of the sheriff court of the county or district in which any inquiry takes place is to

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perform the duties of a master of one of the superior courts (section 76), and in Ireland, "master of one of "Her Majesty's superior courts" means a taxing master of the High Court of Justice in Ireland (section 77).

Costs and expenses of inquiry.

28. (1.) The court may make such order as it thinks fit respecting the costs and expenses of the inquiry, and such order shall, on the application of any party entitled to the benefit thereof, be enforced by any court of summary jurisdiction as if such costs and expenses were a fine imposed by that court.

(2.) The Secretary of State may, if he thinks fit, pay to the person or persons constituting the court, including any assessors, such remuneration as he may with the consent of the Treasury appoint.

(3.) Any costs and expenses ordered by the court to be paid by a Secretary of State, and any remuneration paid under this section, shall be paid out of moneys provided by Parliament.

This is a re-enactment, with a slight verbal alteration, of section 33 of the repealed Act. The word "fine" is used instead of "penalty."

Record of cancellation of certificate; restoration in certain cases.

29. (1.) Where a certificate of a manager or under-manager is cancelled or suspended in pursuance of this Act, a Secretary of State shall cause the cancellation or suspension to be recorded in the register of holders of certificates.

(2.) A Secretary of State may at any time, if it is shown to him to be just so to do, renew or restore, on such terms as he thinks fit, any certificate which has been cancelled or suspended in pursuance of this Act, and cause the renewal or restoration to be recorded in the register aforesaid.

The foregoing is a re-enactment of section 34 of the former Act, but it now extends to an under-manager as well as a manager.

The concluding words, providing for the renewal or restoration of a certificate being recorded in the register, are new.

By section 79 it is provided that the registers in force at the commencement of the present Act, under the re-

pealed Acts, are to be deemed to be registers or parts of registers kept in pursuance of this Act. REPRINT WITH NOTES.

30. Whenever any person proves to the satisfaction of a Secretary of State that he has, without fault on his part, lost or been deprived of any certificate granted to him under this Act, the Secretary of State shall, on payment of such fee, if any, as he may direct, but not exceeding the fee specified in schedule two to this Act, cause a copy of the certificate to which the applicant appears by the register to be entitled, to be made out and certified by the person who keeps the register, and delivered to the applicant; and any copy which purports to be so made and certified as aforesaid shall have all the effect of the original certificate. Copy of certificate in case of loss.

This corresponds with section 35 of the former Act.

The fees to be paid for copies of certificates are for first-class certificates 5*s.*, and for second-class certificates 2*s.* 6*d.*

31. (1.) All expenses incurred by a Secretary of State with the concurrence of the Treasury in carrying into effect the provisions of this Act with respect to certificates of competency shall be defrayed out of moneys provided by Parliament. Expenses in relation to certificates, and application of fees.

(2.) All fees payable by the applicants for examination for or for a copy of a certificate under this Act shall be paid into the receipt of Her Majesty's Exchequer in such manner as the Treasury may from time to time direct, and be carried to the Consolidated Fund.

This is a re-enactment of section 36 of the former Act, but it only mentions certificates of competency, whilst the former section referred to certificates of competency or service.

32. Every person who commits any of the following offences; that is to say, Penalty for forgery of, or false declaration as to, certificate.

(1.) Forges, or counterfeits, or knowingly makes any false statement in any certificate of competency under this Act, or in any certificate of service granted under this Act or any Act repealed by this Act, or any official copy of any such certificate; or

(2.) Knowingly utters or uses any such certificate

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or copy which has been forged or counterfeited or contains any false statement; or

(3.) For the purpose of obtaining, for himself or any other person, employment as a certificated manager or under-manager, or the grant renewal or restoration of any certificate under this Act, or a copy thereof, either

(*a.*) makes or gives any declaration representation statement or evidence which is false in any particular, or

(*b.*) knowingly utters, produces, or makes use of any such declaration representation statement or evidence, or any document containing the same,

shall be guilty of a misdemeanour, and be liable on conviction to imprisonment for a term not exceeding two years, with or without hard labour.

This is a re-enactment with slight verbal amendments of section 37 of the former Act, but it now extends to an under-manager as well as to a manager. The provision also extends to certificates of service granted under previous Acts as well as under the present Act.

In Scotland, the term "misdemeanour" means "crime and offence" (section 76).

RETURNS, PLAN, NOTICES, AND ABANDONMENT.

Returns by owner agent or manager of mine.

33. (1.) On or before the twenty-first day of January in every year the owner agent or manager of every mine shall send to the inspector of the district on behalf of a Secretary of State a correct return, specifying, with respect to the year ending on the preceding thirty-first day of December, the particulars contained in the form in schedule three to this Act, or in such other form as may from time to time be prescribed in lieu of that form by a Secretary of State: Provided that in the case of any mine which is not required by this Act to be under the control of a certificated manager, a return shall not be required of the particulars contained in Part B. of the said form unless or until a Secretary of State otherwise prescribes.

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In the former Act "plan" was not included in this heading, but in a later section, 47.

The return must now be made on the 21st of January in every year instead of the 1st of February as under the former Act, and the return is to give the particulars required in the form given in schedule III., or such other form as the Secretary of State may from time to time prescribe in lieu thereof.

This return is to include the persons ordinarily employed in or about the mine, whether above or below ground, and whether immediately employed by the owner or by any one else under him, under the heads given in the form, which see, schedule III., p. 200.

It is also to include persons employed on sidings and private branch railways, and in cleaning, washing, and coking of coal.

In addition, the return requires the number of days in each month on which coal or ironstone has been drawn.

It will be observed that the particulars required in part B. of the return need not be given in the case of mines not under the control of a certificated manager, unless the Secretary of State otherwise prescribes. See paragraph 2 of general rule No. 1.

The return under this section is to include that provided for by section 69 of the former Act, which was known as the 1st of January return.

(2.) Forms for the purpose of the returns required by this section shall from time to time, on application, be furnished by the inspector of the district on behalf of the Secretary of State.

(3.) The Secretary of State may publish the aggregate results of the returns made under this section with respect to any particular county or inspector's district, or any large portion of a county or inspector's district, and so much of any individual return as does not relate to the quantity of mineral gotten or wrought, but the portion of any individual return relating to the quantity of mineral gotten or wrought shall not be published without the consent of the person making the return, or of the owner of the mine to which it relates; and no person except an inspector or Secretary of State [1]or any body of commissioners incorporated by Act of Parliament for the drainage of mines, and authorised to assess

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and levy rates in respect of minerals gotten from such mines, shall be entitled, without such consent, to see such portion as aforesaid of any individual return.

The words "and so much of any individual return as "does not relate to the quantity of mineral gotten or "wrought" are new. Under the former Act no part of the individual return was to be published without the consent of the person making the same.

[1] This proviso is for the benefit of the Mines Drainage Board of South Staffordshire, which is incorporated under an Act of Parliament. Under the former Act, no one except an inspector or Secretary of State was entitled to see any part of any individual return made under it.

(4.) Every owner agent or manager of a mine who fails to comply with this section or makes any return which is to his knowledge false in any particular shall be guilty of an offence against this Act.

See section 59.

Plan of mine to be kept at office.

34. (1.) The owner agent or manager of every mine shall keep in the office at the mine an accurate plan of the workings of the mine, showing the workings up to a date not more than [1]three months previously, [2]and the general direction and rate of dip of the strata, together with a section of the strata sunk through, or if that be not reasonably practicable, a statement of the depth of the shaft, with a section of the seam.

[1] It was six months in the former Act.

[2] This provision to the end of the sub-section is new.

The former Act only provided for an accurate plan being kept. Under that Act (section 72) "plan" included "a map and section." In the present Act "plan" includes "a correct copy or tracing of an original plan."

(2.) The owner agent or manager of the mine shall, on request at any time of an inspector under this Act, produce to him at the office at the mine such plan and section, and shall also on the like request mark on such plan and section the then state of the workings of the mine; and the inspector shall be entitled to examine the plan and section, and for official purposes only to make a copy of any part thereof respectively.

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In the corresponding section of the former Act an inspector was not authorized to make a copy of any part of the plan produced to him. By the present Act, it will be observed, he has power to do so, but "for official "purposes only." The words "on request at any time ". . . . at the office" are new.

(3.) If the owner agent or manager of any mine fails to keep, or wilfully refuses to produce or allow to be examined, the plan and section aforesaid, or wilfully withholds any portion thereof, [1]or wilfully refuses, on request, to mark thereon the state of the workings of the mine, or conceals any part of those workings, or produces an imperfect or inaccurate plan or section, he shall (unless he shows that he was ignorant of the concealment imperfection or inaccuracy) be guilty of an offence against this Act; and further, the inspector may by notice in writing (whether a penalty for the offence has or has not been inflicted) require the owner agent or manager to cause an accurate plan and section, showing the particulars hereinbefore required, to be made within a reasonable time at the expense of the owner of the mine. [2]Every such plan must be on a scale of not less than that of the Ordnance Survey of twenty-five inches to the mile or on the same scale as the plan for the time being in use at the mine.

[1] The words "or wilfully refuses, on request, to mark "thereon the state of the workings of the mine" are new.

[2] This proviso is new. By the former Act the plan was to be on a scale of not less than two chains to an inch, or on such other scale as the plan then used in the mine.

(4.) If the owner agent or manager fails within twenty days after the requisition of the inspector, [1]or within such further time as may be allowed by a Secretary of State, to cause such plan and section to be made as hereby required, he shall be guilty of an offence against this Act.

[1] The words in the former Act were "or within such "further time as may be shown to be necessary."

See section 59.

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Notice to be given of accidents in mines.

35. (1.) Where in or about any mine, whether above or below ground, either—

(i.) loss of life or any personal injury [1]whatever to any person employed in or about the mine occurs by reason of any explosion of gas, or of any explosive, or of any steam boiler; or

[1] The word "whatever" is new, and the words "or of "any explosive" are substituted for "powder."

(ii.) loss of life or any serious personal injury to any persom employed in or about the mine occurs by reason of any accident whatever,

the owner agent or manager of the mine shall, within twenty-four hours next after the explosion or accident, send notice in writing of the explosion or accident and of the loss of life or personal injury occasioned thereby to the inspector of the district on behalf of a Secretary of State, and shall specify in the notice the character of the explosion or accident and the number of persons killed or injured respectively.

This is as before. As to service of notices, see section 73.

(2.) Where loss of life or serious personal injury has immediately resulted from an explosion or accident, the place where the explosion or accident occurred shall be left as it was immediately after the explosion or accident, until the expiration of at least three days after the sending of such notice as aforesaid of such explosion or accident, or until the visit of the place by an inspector, whichever first happens, unless compliance with this enactment would tend to increase or continue a danger or would impede the working of the mine.

This is a new regulation.

(3.) Where any personal injury, of which notice is required to be sent under this section, results in the death of the person injured, notice in writing of the death shall be sent to the inspector of the district on behalf of a Secretary of State within twenty-four hours after such death comes to the knowledge of the owner agent or manager.

This is as before.

(4.) Every owner agent or manager who fails to act in compliance with this section shall be guilty of an offence against this Act. REPRINT WITH NOTES.

As to "special" reports of explosions or accidents happening in any mine, and formal investigation directed by a Secretary of State into its causes and circumstances, see sections 44 and 45.

As to penalties and how they may be dealt with, see sections 59 and 70.

In the case of Underhill and another *v.* Longridge, under the Coal Mines Regulation Act, 1885 (18 & 19 Vict. c. 108), s. 9, the appellants were the owners of a coal mine in which serious personal injury arose from an explosion. They failed to give notice to the inspector, and were convicted for not having done so under the section named, but this conviction was reversed on appeal, on the ground that section 9 of the Act referred to omitted the words necessary to create the offence. It is clear, however, under the above section that the notice must be sent both of accidents resulting in death and in serious personal injury.

A short report of the case referred to will be found in the Appendix, p. 319.

36. In any of the following cases, namely, Notice to be given of opening and abandonment of mine.

(i.) Where any working is commenced for the purpose of opening a new shaft for [1] or a seam of any mine;

(ii.) Where a shaft or seam of any mine is abandoned or the working thereof discontinued;

(iii.) Where the working of a shaft or a seam of any mine is recommenced after any abandonment or discontinuance for a period exceeding two months; or

(iv.) Where any change occurs in the name of any mine or in the name of the owner agent or manager of any mine to which this Act applies, or in the [2] principal officers of any incorporated company which is the owner of a mine;

the owner agent or manager of the mine shall give notice thereof to the inspector of the district within two months after the commencement abandonment discontinuance recommencement or change, and if such notice

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is not given the owner agent or manager shall be guilty of an offence against this Act.

[1] This is a re-enactment of section 40 of the former Act, but the words "or a seam" are introduced for the first time.

[2] The word "principal" is also new.

The officers here intended are, we presume, the directors and the secretary.

See section 59 as to penalties.

H.M. inspectors of mines have from time to time complained in their annual reports that the various returns required under the corresponding section (40) of the former Act are very much neglected, as also are the returns required under 38 and 69 of that Act (section 33 in the present Act).

Fencing in case of abandoned mine.

37. (1.) Where any mine is abandoned or the working thereof discontinued, at whatever time the abandonment or discontinuance occurred, the owner thereof, and every other person interested in the minerals of the mine, shall cause the top of every shaft and every side entrance from the surface to be and to be kept securely fenced for the prevention of accidents:

Provided that—

(i.) Subject to any contract to the contrary, the owner of the mine shall, as between himself and any other person interested in the minerals of the mine,[1] be liable to carry into effect this section, and to pay any costs [2] charges and expenses incurred by any other person interested in the minerals of the mine in carrying this section into effect:

[1] Some light may perhaps be thrown upon the meaning of the words "any other person interested in the "minerals of the mine" by considering the definition of "owner" in section 75, which gives the persons not included by that section in the term "owner."

See the following cases, a summary of each of which is contained in the Appendix, pp. 319–321:—

Stott *v.* Dickinson, decided under the corresponding section (41) of the Coal Mines Regulation Act, 1872.

Evans *v.* Mostyn, and Arkwright *v.* Evans, decided under a similar section (13) in the Metalliferous Mines Regulation Act, 1872.

[2] "Charges and expenses" new.

(ii.) Nothing in this section shall exempt any person from any liability under any other Act, or otherwise. REPRINT WITH NOTES.

Under the Quarry (Fencing) Act, 1887 (50 & 51 Vict. c. 19), s. 3, it is enacted that "where any quarry dangerous to the public is in open or unenclosed lands "within fifty yards of a highway or place of public resort "dedicated to the public, and is not separated therefrom "by a secure and sufficient fence, it shall be kept reasonably fenced for the prevention of accidents, and unless "so kept shall be deemed to be a nuisance liable to be "dealt with summarily in manner provided by the Public "Health Act, 1875."

And by section 4 the term "quarry" includes every pit or opening made for the purpose of getting stone, slates, lime, chalk, clay, gravel, or sand, but not any natural opening.

The Act does not extend to Scotland and Ireland. There is a provision for fencing also contained in the Metalliferous Mines Act, 1872.

(2.) If any person fails to act in conformity with this section, he shall be guilty of an offence against this Act.

(3.) No person shall be precluded by any agreement from doing, or be liable under any contract to any damages penalty or forfeiture for doing such acts as may be necessary in order to comply with the provisions of this section.

(4.) If any occupier of land or other person wilfully obstructs the owner of a mine or other person interested as aforesaid in doing any such acts, he shall be guilty of an offence against this Act.

Sub-sections 3 and 4 are new.

(5.) Any shaft or side entrance which is not fenced as required by this section, and is within fifty yards of any highway, road, footpath, or place of public resort, or is in open or uninclosed land, shall be deemed to be a nuisance within the meaning of section ninety-one of [1]the Public Health Act, 1875. 38 & 39 Vict. c. 55.

[1] Under the Act of 1872, section 8 of the Nuisances Removal Act for England, 1855, as amended and extended by the Sanitary Act, 1866.

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As to Scotland and Ireland, see sections 76 and 77.

It will be observed, from sub-section 1, that its operation is retrospective, the words being, as in the former Act, "at whatever time the abandonment or discontinuance "occurred." See the case of Stott *v.* Dickinson, a short report of which is contained in the Appendix, p. 319.

Plan of abandoned mine or seam to be sent to Secretary of State.

38. (1.) Where any mine or seam is abandoned, the owner of the mine [1]or seam at the time of its abandonment shall, within three months after the abandonment, send to a Secretary of State an accurate plan showing the boundaries of the workings of the mine or seam up to the time of the abandonment, [2]and the position of the workings with regard to the surfaces, and the general direction and rate of dip of the strata, together with a section of the strata sunk through, or if that is not reasonably practicable, a statement of the depth of the shaft, with a section of the seam. [3]Every such plan must be on a scale of not less than that of the Ordnance Survey of twenty-five inches to the mile, or on the same scale as the plan used at the mine at the time of its abandonment.

[1] The words "or seam" are new.

[2] This provision as to the position of the workings with regard to the surfaces, &c., being shewn, is also new.

[3] The scale is altered as before mentioned.

(2.) The plan and section shall be preserved under the care of the Secretary of State; but no person, except an inspector under this Act, shall be entitled, without the consent of the owner of the mine or seam, to see the plan when so sent until after the expiration of ten years from the time of the abandonment.

This provision was contained in the former Act.
The words "or seam" are new.

(3.) The owner aforesaid shall also, within three months of the abandonment of the mine or seam, send to the inspector of the district, on behalf of a Secretary of State, a correct return specifying, with respect to the period which has elapsed since the expiration of the year covered by the last annual return made under this

Act, the particulars required in that return; and the provisions of this Act with respect to the said annual return shall apply to the return so sent. REPRINT WITH NOTES.

This is new.

The return here referred to is the same as that provided for in section 33, and must be in the form contained in schedule III.

(4.) If the owner of a mine or seam fails to comply with this section, he shall be guilty of an offence against this Act, and be liable to a fine not exceeding thirty pounds.

This is new.

The provision in the former Act was as follows:—"Every person who fails to comply with this section "shall be guilty of an offence against this Act."

By section 59 the general penalty enacted for an offence against the Act is not exceeding twenty pounds, but here it is not exceeding thirty pounds.

(5.) A complaint or information of an offence under this section may be made or laid at any time within six months after abandonment of the mine or seam, or after service on the owner aforesaid of a notice to comply with the requirements of this section, whichever last happens.

This also is new. Three months is the time enacted in section 62 for any other complaint or information.

INSPECTION.

39. (1.) A Secretary of State may from time to time appoint any fit persons to be inspectors (under whatever title he may from time to time fix[1]) of mines, and assign them their duties, and may award them such salaries as the Treasury may approve, and may remove any such inspector: [2]Provided always, that in the appointment of inspectors of mines in Wales and Monmouthshire among candidates, otherwise equally qualified, persons having a knowledge of the Welsh language shall be preferred. Appointment of inspectors of mines.

[1] The words in parentheses are new.

[2] This proviso is also new.

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See section 78 as to inspectors under former Act being continued.

(2.) Notice of the appointment of every such inspector shall be published in the London Gazette.

In Ireland "London Gazette" means "Dublin Gazette" (section 77).

(3.) Every such inspector is referred to in this Act as an inspector, and the inspector of a district means the inspector who is for the time being assigned to the district or portion of the United Kingdom with reference to which the term is used.

35 & 36 Vict. c. 77.

(4.) Any person appointed or acting as inspector under the Metalliferous Mines Regulation Act, 1872, if directed by a Secretary of State to act as an inspector under this Act, may so act, and shall be deemed to be an inspector under this Act.

(5.) The salaries of the inspectors and the expenses incurred by them or by a Secretary of State in the execution of this Act shall continue to be paid out of moneys to be provided by Parliament.

This is a new sub-section.

Disqualification of persons as inspectors.

40. Any person who practises or acts as or is a partner of any person who practises or acts as a land agent or mining engineer, or as a manager viewer agent or valuer of mines, or arbitrator in any difference arising between owners agents or managers of mines, or is otherwise employed in or about any mine, [1]or is a miner's agent or a mine owner (whether the mine is one to which this Act applies or not), shall not act as an inspector of mines under this Act, [2]and no inspector shall be a partner or have any interest direct or indirect in any mine in the district under his charge.

[1] "Or is a miner's agent or a mine owner" is new.
[2] This provision is also new.

Powers of inspectors.

41. An inspector under this Act shall have power to do all or any of the following things; namely,

(i.) To make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act relating to matters above ground or below ground are complied with in the case of any mine:

(ii.) To enter inspect and examine any mine, and every part thereof, at all reasonable times by day and night, but so as not to impede or obstruct the working of the mine:

(iii.) To examine into and make inquiry respecting the state and condition of any mine, or any part thereof, and the ventilation of the mine, and the sufficiency of the special rules for the time being in force in the mine, and all matters and things connected with or relating to the safety of the persons employed in or about the mine or any mine contiguous thereto, [1]or the care and treatment of the horses and other animals used in the mine:

[1] "Or the care and treatment of the horses and other animals used in the mine" is new.

(iv.) To exercise such other powers as may be necessary for carrying this Act into effect.

Every person who wilfully obstructs any inspector in the execution of his duty under this Act, and every owner agent and manager of a mine who refuses or neglects to furnish to the inspector the means necessary for making any entry inspection examination or inquiry under this Act, in relation to the mine, shall be guilty of an offence against this Act.

See section 59 as to penalties.

Notice by inspector of causes of danger not expressly provided against.

42. (1.) If in any respect (which is not provided against by any express provision of this Act, or by any special rule) any inspector finds any mine, or any part thereof, or any matter thing or practice in or connected with any such mine, [1]or with the control, management, or direction thereof by the manager to be dangerous or defective, so as in his opinion to threaten or tend to the bodily injury of any person, he may give notice in writing thereof to the owner agent or manager of the

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mine, and shall state in the notice the particulars in which he considers the mine or any part thereof, or any matter thing or practice, to be dangerous or defective, and require the same to be remedied; and unless the same be forthwith remedied shall also report the same to a Secretary of State.

[1] The words "or with the control, management, or "direction thereof by the manager" are new.

See the case of Reg. *v.* The Spon Lane Colliery Company, Limited, a short report of which is contained in the Appendix, p. 322.

(2.) If the owner agent or manager of the mine objects to remedy the matter complained of in the notice he may, within [1]ten days after receipt of the notice, send his objection in writing, stating the grounds thereof, to a Secretary of State; and thereupon the matter shall be determined by arbitration in manner provided by this Act; and the date of the receipt of the objection shall be deemed to be the date of the reference.

[1] It was "twenty days" in the former Act.

The provisions as to arbitration are contained in section 47.

It has been decided by the Court of Appeal (17th of January 1887) that in an arbitration under section 46 of the former Act, corresponding to the above section of the present Act, the duty of the arbitrator (he was in fact the umpire) is limited to determining whether the matter complained of by the inspector is dangerous and ought to be remedied, and he has no power to determine what is the proper remedy, or to direct that any particular remedy be adopted (H.M. Secretary of State *v.* Fletcher, L. R. 18 Q. B. D. 339; Appendix, p. 323).

The above decision is applicable to the present Act.

(3.) If the owner agent or manager fail, when no objection is sent as aforesaid, to comply with the requisition of the notice within ten days after the expiration of the time for objection, or when there has been an arbitration to comply with the award within the time fixed by the award, he shall be guilty of an offence against this Act, and the notice and award shall

respectively be deemed to be written notice of the offence. REPRINT WITH NOTES.

Provided that the court, if satisfied that the owner agent or manager has taken active measures for complying with the notice or award, but has not, with reasonable diligence, been able to complete the works, may adjourn any proceedings taken before them for punishing the offence, and, if the works are completed within a reasonable time, no penalty shall be inflicted.

(4.) No person shall be precluded by any agreement from doing, or be liable under any contract to any penalty or forfeiture for doing, such acts as may be necessary in order to comply with the provisions of this section.

Sub-sections 3 and 4 substantially re-enact the provisions contained in the former Act, ten days being substituted for twenty days.

43. Every inspector [1]of a district under this Act shall make an annual report of his proceedings during the preceding year to a Secretary of State, which report shall be laid before both Houses of Parliament. Annual reports of inspectors.

[1] "Of a district" is new.
See section 39, sub-section 3, defining inspector of a district.

44. Where in any mine an explosion or accident has caused loss of life or personal injury to any person, a Secretary of State may at any time direct an inspector to make a special report with respect to the explosion or accident. Special reports of inspectors.

This is in effect a re-enactment of the second part of section 48 of the Act of 1872. The power given in that section to a Secretary of State to publish any special report of an inspector is contained in section 46 of the present Act.

45. Where it appears to a Secretary of State that a formal investigation of any explosion or accident and of its causes and circumstances is expedient, the Secretary of State may direct such investigation to be held, Formal investigation when directed by Secretary of State.

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and with respect to any such investigation the following provisions shall have effect:

(1.) The Secretary of State may appoint a competent person to hold the investigation, and may appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the investigation.

(2.) The person or persons so appointed (hereinafter called the court) shall hold the investigation in open court, in such manner and under such conditions as the court may think most effectual for ascertaining the causes and circumstances of the explosion or accident, and enabling the court to make the report in this section mentioned.

(3.) The court shall have for the purpose of the investigation all the powers of a court of summary jurisdiction when acting as a court in hearing informations for offences against this Act, and all the powers of an inspector under this Act, and in addition the following powers; namely,

(*a.*) Power to enter and inspect any place or building the entry or inspection whereof appears to the court requisite for the said purpose:

(*b.*) Power, by summons signed by the court, to require the attendance of all such persons as it thinks fit to call before it and examine for the said purpose, and for that purpose to require answers or returns to such inquiries as it thinks fit to make:

(*c.*) Power to require the production of all books papers and documents which it considers important for the said purpose:

(*d.*) Power to administer an oath and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination:

(4.) Persons attending as witnesses before the court shall be allowed such expenses as would be allowed to witnesses attending before a court of

record; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to a master of one of Her Majesty's superior courts, who on request, signed by the court, shall ascertain and certify the proper amount of the expenses: REPRINT WITH NOTES.

(5.) The court holding an investigation under this section shall make a report to the Secretary of State, stating the causes of the explosion or accident and its circumstances, and adding any observations which the court thinks right to make:

(6.) All expenses incurred in and about an investigation under this section (including the remuneration of any person appointed to act as assessor) shall be deemed to be part of the expenses of the Secretary of State in the execution of this Act.

(7.) Any person who without reasonable excuse (proof whereof shall lie on him) either fails, after having had the expenses (if any) to which he is entitled tendered to him, to comply with any summons or requisition of a court holding an investigation under this section, or prevents or impedes the court in the execution of its duty, shall for every such offence be liable to a fine not exceeding ten pounds, and in the case of a failure to comply with a requisition for making any return or producing any document shall be liable to a fine not exceeding ten pounds for every day that such failure continues.

These provisions are new. They were enacted for the first time in the Coal Mines Act, 1886 (Lord Cross's Act), which, as already stated, is repealed by the present Act, but under that repealed Act it was provided that the investigation should be held by an inspector.

In the Act of 1886 it was provided (2) that the investigation should be held in open court *unless otherwise directed by the Secretary of State.*

The words in italics are omitted from the present Act.

46. The Secretary of State may cause any special report of an inspector or any report of a court under this part of this Act to be made public at such time and in such manner as he may think fit. Publication of reports.

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This proviso was also contained in the Coal Mines Act of 1886.

In substance it is a re-enactment of the second part of section 48 of the Act of 1872.

ARBITRATION.

Provisions as to arbitrations.

47. With respect to arbitrations under this Act, the following provisions shall have effect:

(1.) The parties to the arbitration are in this section deemed to be the owner agent or manager of the mine on the one hand, and the inspector of mines (on behalf of the Secretary of State) on the other:

(2.) Each of the parties to the arbitration may, within fourteen days[1] after the date of the reference, appoint an arbitrator:

[1] Twenty-one days in the former Act.

(3.) No person shall act as arbitrator or umpire under this Act who is employed in or in the management of or is interested in the mine to which the arbitration relates:

(4.) The appointment of an arbitrator under this section shall be in writing, and notice of the appointment shall be forthwith sent to the other party to the arbitration, and shall not be revoked without the consent of that party:

(5.) The death removal or other change in any of the parties to the arbitration shall not affect the proceedings under this section:

(6.) If within the said fourteen days[1] either of the parties fails to appoint an arbitrator, the arbitrator appointed by the other party may proceed to hear and determine the matter in difference, and in that case the award of the single arbitrator shall be final:

[1] Twenty-one days in the former Act.

(7.) If before an award has been made any arbitrator appointed by either party dies or becomes incapable to act, or for seven days[1] refuses or neg-

lects to act, the party by whom such arbitrator was appointed may appoint some other person to act in his place; and if he fails to do so within seven days[1] after notice in writing from the other party for that purpose, the remaining arbitrator may proceed to hear and determine the matter in difference, and in that case the award of the single arbitrator shall be final:

[1] Fourteen days in the former Act.

(8.) In either of the foregoing cases where an arbitrator is empowered to act singly, on one of the parties failing to appoint, the party so failing may, before the single arbitrator has actually proceeded in the arbitration, appoint an arbitrator, who shall then act as if no failure had occurred:

(9.) If the arbitrators fail to make their award within twenty-one days after the day on which the last of them was appointed, or within such extended time (if any) as may have been appointed for that purpose by both arbitrators under their hands, the matter in difference shall be determined by the umpire appointed as hereinafter mentioned:

(10.) The arbitrators, before they enter on the matter referred to them, shall appoint by writing under their hands an umpire to decide on points on which they may differ:

(11.) If the umpire dies or becomes incapable of acting before he has made his award, or refuses to make his award within a reasonable time after the matter has been brought within his cognizance, the persons or person who appointed such umpire shall forthwith appoint another umpire in his place:

(12.) If the arbitrators refuse or fail or for seven days after the request of either party neglect to appoint an umpire, then on the application of either party an umpire [1]may be appointed by the chairman of the general or quarter sessions of the peace within

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the jurisdiction of which the mine [2]or any shaft of the mine is situate:

[1] It was "shall" in the former Act.
[2] "Or any shaft of the mine" is new.

(13.) The decision of every umpire on the matters referred to him shall be final:

(14.) If a single arbitrator fails to make his award within twenty-one days after the day on which he was appointed, the party who appointed him may appoint another arbitrator to act in his place:

(15.) Arrangements shall whenever practicable be made for the matter in difference being heard at the same time before the arbitrators and the umpire:

This is new.

(16.) The arbitrators and the umpire or any of them may examine the parties and their witnesses on oath, and may also consult any counsel engineer or scientific person whom they may think it expedient to consult:

(17.) The payment, if any, to be made to any arbitrator or umpire for his services shall be fixed by the Secretary of State, and together with the costs of the arbitration and award shall be paid by the parties or one of them according as the award may direct. Such costs may be taxed by a master of one of Her Majesty's superior courts, who, on the written application of either of the parties, shall ascertain and certify the proper amount thereof. The amount, if any, payable by the Secretary of State shall be paid as part of the expenses of inspectors under this Act. The amount, if any, payable by the owner agent or manager may in the event of non-payment be recovered in the same manner as fines[1] under this Act:

[1] "Penalties" in the former Act.

(18.) Every person who is appointed an arbitrator under this section shall be a practical mining engi-

neer, or a person accustomed to the working of mines, [1]and every person who is appointed an umpire under this section shall be a county court judge, a police or stipendiary magistrate, a recorder of a borough, or a registrar of a county court, but when an award has been made under this section the arbitrator or umpire who made it shall be deemed to have been duly qualified as provided by this section. REPRINT WITH NOTES.

[1] This proviso as to the qualification of an umpire is new.

As to Scotland and Ireland, see sections 76 and 77.

With the exceptions indicated, this section is a re-enactment of the provisions as to arbitration contained in section 49 of the former Act.

See note to section 42 as to the case of the Secretary of State *v.* Fletcher, ante, p. 144.

CORONERS.

48. With respect to coroners' inquests on the bodies of persons whose death may have been caused by explosions or accidents in [1]or about mines, the following provisions shall have effect: Provisions as to coroners' inquests on deaths from accidents in mines.

[1] The words "or about" are new.

(1.) Where a coroner holds an inquest on the body of any person whose death may have been caused by any explosion or accident, of which notice is required by this Act to be given to the inspector of the district, the coroner shall adjourn the inquest unless an inspector, or some person on behalf of a Secretary of State, is present to watch the proceedings:

(2.) The coroner, at least four days before holding the adjourned inquest, shall send to the inspector for the district notice in writing of the time and place of holding the adjourned inquest:

(3.) The coroner, before the adjournment, may take evidence to identify the body, and may order the interment thereof:

(4.) If an explosion or accident has not occasioned

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the death of more than one person, and the coroner has sent to the inspector of the district notice of the time and place of holding the inquest [1]at such time as to reach the inspector not less than [2]twenty-four hours before the time of holding the same, it shall not be imperative on him to adjourn the inquest in pursuance of this section, if the majority of the jury think it unnecessary so to adjourn:

[1] "At such time as to reach the inspector" is new.
[2] Forty-eight hours in the former Act.

(5.) An inspector shall be at liberty at any such inquest to examine any witness, subject nevertheless to the order of the coroner:

(6.) Where evidence is given at an inquest at which an inspector is not present of any neglect as having caused or contributed to the explosion or accident, or of any defect in or about the mine appearing to the coroner or jury to require a remedy, the coroner shall send to the inspector of the district notice in writing of such neglect or defect[1]:

[1] The word "default" was used in the former Act.
If the coroner neglects the duty imposed by this sub-section, he will incur a penalty under the Act. By section 65, no prosecution can be instituted against a coroner for any offence under the Act except with the consent, in writing, of a Secretary of State.

(7.) Any person having a personal interest in or employed in or in the management of the mine in which the explosion or accident occurred shall not be qualified to serve on the jury empanelled on the inquest; and it shall be the duty of the constable or other officer not to summon any person disqualified under this provision, and it shall be the duty of the coroner not to allow any such person to be sworn or to sit on the jury:

It will be the duty of the coroner under this sub-section to see that the persons empanelled for the jury are duly qualified to serve.

The constable or other officer summoning the jury will also incur a penalty under the Act if he fails to comply with the provision. REPRINT WITH NOTES.

(8.) Any relative of any person whose death may have been caused by the explosion or accident with respect to which the inquest is being held, and the owner agent or manager of the mine in which the explosion or accident occurred, and any person appointed by the order in writing of the majority of the workmen employed at the said mine, shall be at liberty to attend and examine any witness, either in person or by his counsel, solicitor, or agent, subject nevertheless to the order of the coroner.

Every person who fails to comply with the provisions of this section shall be guilty of an offence against this Act.

Sub-section 8 is an extension of the provision contained in the Coal Mines Act, 1886. With this exception, and the alterations already indicated, the section re-enacts the former provisions on the subject of coroners.

It will be the duty of the coroner to see that the persons claiming to attend and examine witnesses are entitled to do so in accordance with the sub-section.

As to penalty for offence against the Act, see section 59.

PART II.

RULES.

GENERAL RULES.

49. The following general rules shall be observed, so far as is reasonably practicable, in every mine: General Rules.

It has been decided that the expression "reasonably "practicable" does not relate to the carrying on of the mine as a profitable concern, but to physical or engineering difficulties in the way of carrying out the rules (Wales *v.* Thomas, 16 Q. B. D. 340; Appendix, p. 316).

As to contravention or non-compliance with any of the

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General Rules by any person whomsoever, and liability of the owner, agent, and manager in respect thereof, see section 50, and for penalties, sections 59 and 60.

Ventilation of mine.

Rule 1. An adequate amount of ventilation shall be constantly produced in every mine to dilute and render harmless noxious gases to such an extent that the working places of the shafts, levels, stables, and workings of the mine, and the travelling roads to and from those working places shall be in a fit state for working and passing therein.

In the case of mines required by this Act to be under the control of a certificated manager, the quantity of air in the respective splits or currents shall at least once in every month be measured and entered in a book to be kept for the purpose at the mine.

It was decided in the case of Brough *v.* Homfray that it was not sufficient compliance with this rule to cause ventilation to pass along the working places and travelling roads, but that so much of the mine must be kept so ventilated as to render the working places and travelling roads safe (L. R. 3 Q. B. D. 771; Appendix, p. 326).

Sufficient ventilation is to be constantly produced, and it is not to be suspended during temporary cessations of work, as, for example, at night, or on Sundays and other proper days of rest, for during all these times the mine is to be considered as continuing at work (Knowles *v.* Dickinson, 29 L. J. [N. S.] M. C. 135, 2 E. & E. 705, 6 Jur. N. S. 678, 8 W. R. 411; Appendix, p. 326).

Though both the foregoing decisions were given under the Act of 1860, they appear equally applicable to the present Act.

The first part of the rule is a re-enactment of the 1st general rule under the Act of 1872.

The second part of the rule is new. A form of report book for the purpose of entering the monthly measurements will be found in the Appendix, p. 260.

It is provided by rule 37 that all necessary books required by the rules are to be provided by the owner, agent, or manager, and that the books, or a correct copy thereof, are to be kept at the office at the mine, and open to inspection.

As to penalties, see sections 59 and 60.

Rule 2. Where a fire is used for ventilation in any

mine newly opened after the passing of this Act, the return air, unless it be so diluted as not to be inflammable, shall be carried off clear of the fire by means of a dumb drift or air-way. REPRINT WITH NOTES.

This is a new rule, and, as will be seen, applies only to mines newly opened after the passing of this Act.

Rule 3. Where a mechanical contrivance for ventilation is introduced into any mine after the commencement of this Act, it shall be in such position and placed under such conditions as will tend to insure its being uninjured by an explosion.

This is also a new rule.

It will not necessitate an alteration of ventilating fans in use before the 1st of January 1888, but the rule must be borne in mind before erecting ventilating fans in the future.

Rule 4. A station or stations shall be appointed at the entrance to the mine, or to different parts of the mine, as the case may require; and the following provisions shall have effect: Stations and inspection of condition as to ventilation, &c.

(i.) As to inspection before commencing work:—

A competent person or competent persons appointed by the owner agent or manager for the purpose not being contractors for getting minerals in the mine shall, within such time immediately before the commencement of each shift as shall be fixed by special rules made under this Act, inspect every part of the mine situate beyond the station or each of the stations, and in which workmen are to work or pass during that shift and shall ascertain the condition thereof so far as the presence of gas ventilation, roof and sides, and general safety are concerned.

No workman shall pass beyond any such station until the part of the mine beyond that station has been so examined and stated by such competent person to be safe.

The inspection shall be made with a locked safety lamp, except in the case of any mine in which inflam-

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mable gas has not been found within the preceding twelve months.

A report specifying where noxious or inflammable gas, if any, was found present, and what defects (if any) in roofs or sides, and what (if any) other source of danger were or was observed, shall be recorded without delay in a book to be kept at the mine for the purpose, and accessible to the workmen, and such report shall be signed by, and so far as the same does not consist of printed matter shall be in the handwriting of the person who made the inspection.

For the purpose of the foregoing provisions of this rule, two or more shifts succeeding one another without any interval are to be deemed to be one shift.

(ii.) As to inspection during shifts:—

A similar inspection shall be made in the course of each shift of all parts of the mine in which workmen are to work or pass during that shift, but it shall not be necessary to record a report of the same in a book: Provided that in the case of a mine worked continuously throughout the twenty-four hours by a succession of shifts, the report of one of such inspections shall be recorded in manner above required.

This new rule is in place of the former general rules 2, 3, and 5.

The former rule 2 provided for the inspection, with a locked safety lamp, once in every twenty-four hours if one shift was employed, and once in every twelve hours if two shifts were employed, in every mine in which inflammable gas had been found within the preceding twelve months.

The former general rule 3 provided, in cases where such gas had not been found, for an inspection (but not with a locked safety lamp) once in twenty-four hours; such inspection was, under that rule, to be made, as far as reasonably practicable, *immediately* before the time for commencing work.

The former rule 5 provided for the appointment of lamp stations.

It will be observed in the above rule, part i., relating to inspection before commencing work, that a locked safety

lamp can only be dispensed with in the case of a mine in which inflammable gas has not been found within the preceding twelve months. The inspection is to be made within such time immediately before the commencement of each shift as shall be fixed by the special rules. REPRINT WITH NOTES.

It must now deal with the condition of the mine as to the presence of gas, the state of the roof and sides, and the condition as to general safety, as well as to ventilation.

The report book must be kept at the mine, and be accessible to the workmen, and must be in the handwriting of, and signed by, the person who made the inspection, who must not be a contractor for getting minerals in the mine. See also rule 37, providing for report books or copies being kept at the office.

It will be seen that the second part of the rule deals with inspection during shifts. The reports of these inspections need not be recorded, except where a mine is working continuously throughout the twenty-four hours by a succession of shifts, in which case the report of one of such inspections must be recorded. See general rule 12 (*g*).

A form of report book will be found in the Appendix, p. 262.

Rule 5. A competent person or competent persons appointed by the owner agent or manager for the purpose, shall, once at least in every twenty-four hours, examine the state of the external parts of the machinery, the state of the guides and conductors in the shafts, and the state of the head gear, ropes, chains, and other similar appliances of the mine which are in actual use both above ground and below ground, and shall once at least in every week examine the state of the shafts by which persons ascend or descend; and shall make a true report of the result of such examination, and every such report shall be recorded without delay in a book to be kept at the mine for the purpose, and shall be signed by the person who made the inspection. Inspection of machinery, &c. above and below ground.

This rule contains in substance the provisions of the former general rule 29, but in that rule the words "working places, levels, planes" were used, and the guides and conductors in the shafts were only to be examined once a week instead of once in every twenty-four hours as now necessary.

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A form of report book is given in the Appendix, p. 266.

A competent person or persons should be appointed, and the necessary report book should be provided.

Fencing of entrances.

Rule 6. Every entrance to any place which is not in actual use or course of working and extension, shall be properly fenced across the whole width of the entrance, so as to prevent persons inadvertently entering the same.

This is a re-enactment of the former general rule 4, with the addition that the words "use or" are added.

Withdrawal of workmen in case of danger.

Rule 7. If at any time it is found by the person for the time being in charge of the mine, or any part thereof, that by reason of inflammable gases prevailing in the mine, or that part thereof, or of any cause whatever, the mine or that part is dangerous, every workman shall be withdrawn from the mine or part so found dangerous, and a competent person appointed for the purpose shall inspect the mine or part so found dangerous, and if the danger arises from inflammable gas shall inspect the mine or part with a locked safety lamp; and in every case shall make a true report of the condition of the mine or part; and a workman shall not, except in so far as is necessary for inquiring into the cause of danger or for the removal thereof, or for exploration, be re-admitted into the mine, or part so found dangerous, until the same is stated by [1]the person appointed as aforesaid not to be dangerous. Every such report shall be recorded in a book which shall be kept at the mine for the purpose, and shall be signed by the person who made the inspection.

This is a re-enactment of the former general rule 6, the word "inflammable" being substituted for "noxious."

[1] In the former Act the words were "such report."

See Reg. *v.* Spon Lane Colliery Company (3 Q. B. D. 673), a short report of which is contained in the Appendix, p. 322.

As to the meaning of the expression "or any part "thereof," see the case of Wales *v.* Thomas, 16 Q. B. D. 340, noted in the Appendix, p. 316.

See also section 19 as to division of mine into parts.

A form of report book is given in the Appendix, p. 268.

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Use of safety lamps in certain places.

Rule 8. No lamp or light other than a locked safety lamp shall be allowed or used—

(*a.*) In any place in a mine in which there is likely to be any such quantity of inflammable gas as to render the use of naked lights dangerous; or

(*b.*) In any working approaching near a place in which there is likely to be an accumulation of inflammable gas.

And when it is necessary to work the coal in any part of a ventilating district with safety lamps, it shall not be allowable to work the coal with naked lights in another part of the same ventilating district situated between the place where such lamps are being used and the return air-way.

This is a new rule.

"Ventilating district" means "such part of a mine as "has an independent intake, commencing from a main "intake air-course, and an independent return air-way, "terminating at a return air-course"—Rule 12 (*k*).

Construction of safety lamps.

Rule 9. Wherever safety lamps are used, they shall be so constructed that they may be safely carried against the air current ordinarily prevailing in that part of the mine in which the lamps are for the time being in use, even though such current should be inflammable.

This is a new rule.

Examination of safety lamps.

Rule 10. In any mine or part of a mine in which safety lamps are required by this Act or by the special rules made in pursuance of this Act to be used—

(i.) A competent person appointed by the owner agent or manager for the purpose, shall, either at the surface or at the appointed lamp station, examine every safety lamp immediately before it is taken into the workings for use, and ascertain it to be in safe working order and securely locked; and such lamps shall not be used until they have been so examined and found in safe working order and securely locked:

(ii.) A safety lamp shall not be unlocked except

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either at the appointed lamp station or for the purpose of firing a shot, in conformity with the provisions hereinafter contained:

(iii.) A person, unless he has been appointed either for the purpose of examining safety lamps or for the purpose of firing shots, shall not have in his possession any contrivance for opening the lock of any safety lamp:

(iv.) A person shall not have in his possession any lucifer match or apparatus of any kind for striking a light, except within a completely closed chamber attached to the fuse of the shot.

This rule is substituted for the former general rule 7, of which it is a considerable extension. The words "either at the surface or at the appointed lamp station" were not contained in the former rule, and the words "in "safe working order" have been substituted for "secure."

Under the former rule safety lamps might be unlocked on "due authority."

The concluding words of the above rule, "except within "a completely closed chamber attached to the fuse of the "shot," are new.

In the case of Dickinson *v.* Fletcher (under the Act of 1860, which enacts penalties for default or wilful violation by an owner, principal agent, or viewer of a mine) the owner of a mine had appointed a competent person to examine and lock the safety lamps required for use in the mine, but such person delivered out certain safety lamps to miners for use in the mine unlocked. It was *held*, that in the absence of any personal default on the part of the owner, he was not liable to a penalty in respect of the act of the person so employed by him (L. R. 9 C. P. Cases 1; and see short report of case in Appendix, p. 327).

Lamp stations.

Rule 11. Where safety lamps are required to be used, the position of the lamp stations for lighting or relighting the lamps shall not be in the return air.

This is a new rule.

Use of explosives below ground.

Rule 12. Any explosive substance[1] shall only be used in the mine below ground as follows:

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(*a.*) It shall not be stored in the mine:

This is a new rule in substitution for the former general rule 8, "Gunpowder and Blasting."

[1] In the former rule the words were "gunpowder or "other explosive or inflammable substance."

(*b.*) It shall not be taken into the mine, except in cartridges in a secure case or canister containing not more than five pounds:

Provided that on the application of the owner agent or manager of any mine, the Secretary of State may by order exempt such mine from so much of this rule as forbids taking an explosive substance into the mine except in cartridges.

The word "secure" is new, and the limit has been increased from four to five pounds.

In a case under the Metalliferous Mines Act, 1872 (35 & 36 Vict. c. 77), s. 23, sub-s. 2, "Gunpowder or other "explosive or inflammable substance shall not be taken "into the mine except in a case or canister containing "not more than four pounds," it was *held*, that the word "case," as used in the section, must be taken to mean something solid and substantial in the nature of a canister, and that a bag of linen was not such a "case" (Foster *v.* Diphwys Casson Slate Company, L. R. 18 Q. B. D. 428; Appendix, p. 328).

(*c.*) A workman shall not have in use at one time in any one place more than one of such cases or canisters:

This is the same as under the former rule 8.

(*d.*) In the process of charging or stemming for blasting, a person shall not use or have in his possession any iron or steel pricker, scraper, charger, tamping rod, or stemmer, nor shall coal or coal dust be used for tamping:

"Scraper" and "charger" are new, as is also the prohibition as to the use of coal or coal-dust for tamping.

(*e.*) No explosive shall be forcibly pressed into a hole of insufficient size, and, when a hole has been charged, the explosive shall not be unrammed, and no hole shall be bored for a charge at a distance of

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less than six inches from any hole where the charge has missed fire:

This is new. There was a provision in the former rule to the effect that when a charge had missed fire it should not be unrammed.

(*f.*) In any place in which the use of a locked safety lamp is for the time being required by or in pursuance of this Act, or which is dry and dusty, no shot shall be fired except by or under the direction of a competent person appointed by the owner agent or manager of the mine, and such person shall not fire the shot or allow it to be fired until he has examined both the place itself where the shot is to be fired and all contiguous accessible places of the same seam within a radius of twenty yards, and has found such place safe for firing:

(*g.*) If in any mine, at either of the four inspections under rule 4 recorded last before a shot is to be fired, inflammable gas has been reported to be present in the ventilating district in which the shot is to be fired, the shot shall not be fired—

For definition of "ventilating district" see sub-head (*k*).

(1.) Unless a competent person, appointed as aforesaid, has examined the place where gas has been so reported to be present, and has found that such gas has been cleared away, and that there is not at or near such place sufficient gas issuing or accumulated to render it unsafe to fire the shot; or

(2.) Unless the explosive employed in firing the shot is so used with water or other contrivance as to prevent it from inflaming gas, or is of such a nature that it cannot inflame gas:

(*h.*) If the place where a shot is to be fired is dry and dusty, then the shot shall not be fired unless one of the following conditions is observed, that is to say—

(1.) Unless the place of firing and all contiguous accessible places within a radius of twenty yards

therefrom are at the time of firing in a wet state from thorough watering or other treatment equivalent to watering, in all parts where dust is lodged whether roof, floor, or sides; or

(2.) In the case of places in which watering would injure the roof or floor, unless the explosive is so used with water or other contrivance as to prevent it from inflaming gas or dust, or is of such a nature that it cannot inflame gas or dust:

(*i.*) If such dry and dusty place is part of a main haulage road,[1] or is a place contiguous thereto, and showing dust adhering to the roof and sides, no shot shall be fired there unless—

(1.) Both the conditions mentioned in sub-head (*h*) have been observed; or

(2.) Unless such one of the conditions mentioned in sub-head (*h*) as may be applicable to the particular place has been observed, and moreover all workmen have been removed from the seam in which the shot is to be fired, and from all seams communicating with the shaft on the same level, except the men engaged in firing the shot, and such other persons, not exceeding ten, as are necessarily employed in attending to the ventilating furnaces, steam boilers, engines, machinery, winding apparatus, signals, or horses, or in inspecting the mine:

[1] For definition of "main haulage road" see sub-head (*k*).

The foregoing sub-heads (*f*), (*g*), (*h*), and (*i*), containing the regulations under which shots are to be fired, are substantially new. They are very much more stringent than the regulations contained in sub-heads (*f*) and (*g*) of the former rule 8. It will be observed that in sub-head (*g*) reference is made "to either of the four inspectors "under general rule 4," so that it will be necessary, before firing shots, to examine the last four *recorded* inspections under the rule named to see whether or not gas has been reported to be present.

Under sub-head (*i*) all workmen are to be removed "from the seam in which the shot is to be fired, and from

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"all seams communicating with the shaft on the same "level," except the men, not exceeding ten, referred to.

The division of a mine into "panels" as in the former Act is done away with, and the division is now into "ventilating districts" as already defined in sub-head (*k*) of this rule.

The extra precaution as to a "main haulage road," defined in the following sub-head (*k*), or a place contiguous thereto, is new.

(*k.*) In this Act "ventilating district" means such part of a seam as has an independent intake commencing from a main intake air course, and an independent return airway terminating at a main return air course; and "main haulage road" means a road which has been, or for the time being is, in use for moving trams by steam or other mechanical power:

The expressions "ventilating district" and "main haul- "age road," above defined, are new.

(*l.*) Where a seam of a mine is not divided into separate ventilating districts the provisions in this Act relating to ventilating districts shall be read as though the word "seam" were substituted for the words "ventilating district":

(*m.*) So much of this rule as requires the explosive substance taken into the mine to be in cartridges, and so much of the provisions of sub-head (*f*) as relates to a dry and dusty place, and the provisions (*g*), (*h*), (*i*), (*k*), and (*l*) shall not apply to seams of clay or stratified ironstone which are not worked in connexion with any coal seam, and which contain no coal in the working.

This sub-head is to continue and extend the exemption granted by the Stratified Ironstone Mines (Gunpowder) Act, 1881 (44 & 45 Vict. c. 26), repealed by the present Act.

In addition to the provisions of this general rule, all the restrictions relating to the storage and use of gunpowder and other explosives contained in the Explosives Act, 1875 (38 Vict. c. 17), must be observed.

That Act applies to gunpowder and other explosives,

and the term "explosive" as defined by section 3 "(1) "means gunpowder, nitro-glycerine, dynamite, gun- "cotton, blasting powders, fulminate of mercury or of "other metals, coloured fires, and every other substance, "whether similar to those above mentioned or not, used or "manufactured with a view to produce a practical effect "by explosion or a pyrotechnic effect; and (2) includes "fog signals, fireworks, fuzes, rockets, percussion caps, "detonators, cartridges, ammunition of all descriptions, "and every adaptation or preparation of an explosive as "above defined."

Reprint with notes.

The Act provides for licences for, and the mode of construction of, magazines and stores, and prescribes regulations with regard to their use; for which see the official publication called "Guide Book to the Explosives Act, "1875," by Colonel V. D. Majendie, C.B., Her Majesty's Chief Inspector of Explosives, before referred to.

A reprint of sections 3, 17, and 59 of the Act named is contained in the Appendix, p. 285.

In all cases, when considering what precautions are to be taken as to the use of explosives, the special rules must be consulted as well as this Act.

Water and bore-holes.

Rule 13. Where a place is likely to contain a dangerous accumulation of water, the working approaching that place shall not at any point within forty yards of that place exceed eight feet in width, and there shall be constantly kept at a sufficient distance, not being less than five yards, in advance, at least one bore-hole near the centre of the working, and sufficient flank bore-holes on each side.

This is a re-enactment of the former general rule 9, but the words "at any point within forty yards of that place" are new.

Signalling and man-holes for travelling planes worked by machinery.

Rule 14. Every underground plane on which persons travel, which is self-acting or worked by an engine, windlass, or gin, shall be provided (if exceeding thirty yards in length) with some proper means of communicating distinct and definite signals between the stopping places and the ends of the plane, and shall be provided in every case, with sufficient man-holes for places of refuge, at intervals of not more than twenty yards, [1]or if there is not room for a person to stand between the side of a tub and the side of the plane, then (unless the

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tubs are moved by an endless chain or rope) at intervals of not more than ten yards.

This is a re-enactment of the former rule 10.

The words "communicating distinct and definite "signals" are new.

[1] These words to the end of the rule are new.

In the case of Wilson *v.* The Wishaw Coal Company, in Scotland (June 21, 1883), it was decided that the plaintiff, a miner, who had been knocked down by a train of hutches when making his way from his working place to the bottom of the shaft, could not recover damages for his injuries, inasmuch as he had wilfully incurred the risk, notwithstanding that it was proved in the case that some of the man-holes were more than the proper distance apart (10 Sess. Cas. 4th ser. 1021; Appendix, p. 328).

Man-holes for other travelling roads.

Rule 15. Every road on which persons travel underground where the load is drawn by a horse or other animal shall be provided, at intervals of not more than fifty yards, with sufficient man-holes, or with places of refuge, and every such place of refuge shall be of sufficient length, and at least three feet in width, between the waggons running on the road and the side of such road. There shall be at least two proper travelling ways into every steam engine room and boiler gallery.

This rule is substantially the same as the former rule 11, with the exception of the concluding provision, which is new.

Man-holes to be kept clear.

Rule 16. Every man-hole and every place of refuge shall be constantly kept clear, and no person shall place anything in any such man-hole or place of refuge.

The former rule said "space for a place of refuge," and concluded with the words "so as to prevent access "thereto."

Dimensions of travelling roads.

Rule 17. Every travelling road on which a horse or other draught animal is used under ground shall be of sufficient dimensions to allow the horse or other animal to pass without rubbing against the roof or timbering.

This is a new rule.

Fencing of old shafts.

Rule 18. The top of every shaft which for the time

being is out of use, or used only as an air shaft, shall be and shall be kept securely fenced. REPRINT WITH NOTES.

The words "and shall be kept" are new.

Rule 19. The top and all entrances between the top and bottom, including the sump, if any, of every working ventilating or pumping shaft shall be properly fenced, but this shall not be taken to forbid the temporary removal of the fence for the purpose of repairs or other operations, if proper precautions are used. Fencing of entrances to shafts.

"Including the sump, if any," is new, and "ventilating" is also new.

It has been decided (in Scotland—June 22, 1886) that where a man coming up a pit, the top of which was properly fenced, left a gate open, and a trespasser on the colliery premises, who was in a state of intoxication, fell down the pit and was killed, the owners were not liable in damages, either under the statute or at common law (Sinnerton *v.* Merry, 13 Sess. Cas. 4th ser. 1012; Appendix, p. 328).

Rule 20. Where the natural strata are not safe, every working or pumping shaft shall be securely cased lined or otherwise made secure. Securing of shafts.

This corresponds with rule 15 under the former Act.

In the case of Mellors *v.* Shaw (June 21, 1861) the owners of a mine in which, owing to the defective lining or casing of the shaft, a stone fell from the side and injured the plaintiff, were found guilty of personal negligence, and liable in damages (1 B. & S. 437; Appendix, p. 329).

Rule 21. The roof and sides of every travelling road and working place shall be made secure, and a person shall not, unless appointed for the purpose of exploring or repairing, travel or work in any such travelling road or working place which is not so made secure. Securing of roofs and sides.

This is the same as the former rule 16.

Rule 22. Where the timbering of the working places is done by the workmen employed therein, suitable timber shall be provided at the working place, gate end, pass bye, siding or other similar place in the mine convenient to the workmen, and the distance between the sprags or holing props where they are required shall Timbering.

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not exceed six feet or such less distance as may be ordered by the owner agent or manager.

This is a new rule.

Option of using downcast shaft.

Rule 23. Where there is a downcast and furnace shaft to the same seam, and both such shafts are provided with apparatus in use for raising and lowering persons, every person employed in the mine shall, on giving reasonable notice, have the option of using the downcast shaft.

The words "to the same seam" are new.

Attendance of engineman.

Rule 24. In any mine which is usually entered by means of machinery, a competent male person not less than twenty-two years of age shall be appointed for the purpose of working the machinery which is employed in lowering and raising persons therein, and shall attend for that purpose during the whole time that any person is below ground in the mine.

The former rule 18 provided for a "competent person'—being a male of at least eighteen years of age (sec. 14).

By the present Act a competent person above the age of eighteen years, lawfully employed before the 1st of January 1888, may continue to be so employed (section 82).

Where any shaft, plane, or level is used for the purpose of communication from one part to another part of a mine, and persons are taken up or down or along such shaft, plane, or level by means of any engine, windlass, or gin, driven or worked by steam or any mechanical power, or by an animal, or by manual labour, the person in charge of such engine, windlass, or gin, or of any part of the machinery, ropes, chains, or tackle connected therewith must be a competent male person not less than eighteen years of age.

This part of the rule re-enacts the first part of section 14 of the Act of 1872, but the word "competent" is new (see section 82).

Where the machinery is worked by an animal, the person under whose direction the driver of the animal acts, shall for the purposes of this rule, be deemed to be the person in charge of the machinery.

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This is a re-enactment of the second portion of section 14 of the former Act, but that section provided that such driver should not be under twelve years of age.

Sections 4 and 7 of the present Act provide that no boys under twelve years of age are to be employed in or about mines.

Means of signalling for working shafts.

Rule 25. Every working shaft used for the purpose of drawing minerals or for the lowering or raising of persons shall, if exceeding fifty yards in depth, and not exempted in writing by the inspector of the district, be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft and from every entrance for the time being in use between the surface and the bottom of the shaft to the surface, and from the surface to the bottom of the shaft and to every entrance for the time being in use between the surface and the bottom of the shaft.

This is a re-enactment of the former rule 19, but the words "in use" are substituted for "in work."

Rule 26. If in any mine the winding apparatus is not provided with some automatic contrivance to prevent over-winding, then the cage, when men are being raised, shall not be wound up at a speed exceeding three miles an hour, after the cage has reached a point in the shaft to be fixed by the special rules.

This is a new rule.

The special rules at each mine will specify at what distance from the surface the reduced rate of speed shall commence.

Cover overhead.

Rule 27. A sufficient cover overhead shall be used for every cage or tub employed in lowering or raising persons in any working shaft, except where the cage or tub is worked by a windlass, or where persons are employed at work in the shaft, or where a written exemption is given by the inspector of the district.

This is substantially the same as the former rule 20, but the words "every cage or tub employed" are new.

Chains.

Rule 28. A single linked chain shall not be used for lowering or raising persons in any working shaft or

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plane except for the short coupling chain attached to the cage or tub.

This is the same as the former rule 21, with the exception that "tub" is substituted for "load."

Prevention of rope slipping on drum.

Rule 29. There shall be on the drum of every machine used for lowering or raising persons, such flanges or horns, and also, if the drum is conical, such other appliances as may be sufficient to prevent the rope from slipping.

This is a re-enactment of the former rule.
See the case of Baker *v.* Carter, noticed under section 50.

Break and indicator.

Rule 30. There shall be attached to every machine worked by steam, water, or mechanical power, and used for lowering or raising persons, an adequate break [1] or breaks, and a proper indicator (in addition to any mark on the rope) showing to the person who works the machine the position of the cage or [2] tub in the shaft.

[3] If the drum is not on the crank shaft, there shall be an adequate break on the drum shaft.

[1] "Or breaks" is new.
[2] "Tub" is substituted for "load."
[3] This is new.

Fencing machinery.

Rule 31. Every fly-wheel and all exposed and dangerous parts of the machinery used in or about the mine shall be and shall be kept securely fenced.

There is no alteration in this rule.

Safety valves and gauges for boilers.

Rule 32. Each steam boiler, whether separate or one of a range, shall have attached to it a proper safety valve, and also a proper steam gauge and water gauge, to show respectively the pressure of steam and the height of water in each boiler.

"Whether separate or one of a range" is new.

Barometer, &c.

Rule 33. A barometer and thermometer shall be placed above ground in a conspicuous position near the entrance to the mine.

In the former rule 26 this was only required after dangerous gas had been found in any mine.
Now a barometer and thermometer must be provided at every mine, whether gas has been found or not.

Rule 34. Where persons are employed underground, ambulances or stretchers, with splints and bandages, shall be kept at the mine ready for immediate use in case of accident. Reprint with notes. Stretchers.

This is a new rule.

Rule 35. No person shall wilfully damage, or without proper authority remove or render useless, any fence, fencing, man-hole, place of refuge, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, break, indicator, steam gauge, water gauge, safety valve, or other appliance or thing provided in any mine in compliance with this Act. Wilful damage.

This is the same as the former rule 27, but the words "man-hole, place of refuge," are new.

Rule 36. Every person shall observe such directions with respect to working as may be given to him with a view to comply with this Act or the special rules in force in the mine. Observance of directions.

The words "in force in the mine" are new.

Rule 37. The books mentioned in these rules shall be provided by the owner agent or manager, and the books, or a correct copy thereof, shall be kept at the office at the mine, and any inspector under this Act, and any person employed in the mine or any one having the written authority of any inspector or person so employed, may at all reasonable times inspect and take copies of and extracts from any such books; but nothing in these rules shall be construed to impose the obligation of keeping any such book or a copy thereof for more than twelve months after the book has ceased to be used for entries therein under this Act. Books and copies thereof.

Any report by this Act required to be recorded in a book may be partly in print (including lithograph) and partly in writing.

This is a new rule.

The former rule 31 was as follows:—"The books "mentioned in this section, or a copy thereof, shall be "kept at the office at the mine, and any inspector under

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"this Act, and any person employed in the mine, may, at "all reasonable times, inspect and take copies of and "extracts from any such books."

Periodical inspection on behalf of workmen.

Rule 38. The persons employed in a mine may from time to time appoint two of their number [1]or any two persons, not being mining engineers, who are practical working miners, to inspect the mine at their own cost, and the persons so appointed shall be allowed once at least in every month, accompanied, if the owner agent or manager of the mine thinks fit, by himself or one or more officers of the mine, to go to every part of the mine, and to inspect the shafts, levels, planes, working places, return air-ways, ventilating apparatus, old workings, and machinery. Every facility shall be afforded by the owner agent and manager, and all persons in the mine for the purpose of the inspection, and the persons appointed shall [2]forthwith make a true report of the result of the inspection, and that report shall be recorded in a book to be kept at the mine for the purpose, and shall be signed by the persons who made the inspection; [3]and if the report state the existence or apprehended existence of any danger, the owner agent or manager shall forthwith cause a true copy of the report to be sent to the inspector of the district.

This is in substitution for the former rule 30, but embodies important amendments.

[1] The words "or any two persons, not being mining "engineers, who are practical working miners," are new. The opportunity given to the owner, agent, or manager to depute some official to accompany the persons making the periodical inspection under this rule should be borne in mind.

[2] The word "forthwith" is new.

[3] This last provision is also new.

A form of report book under this rule is given in the Appendix, p. 270.

Rule 39. No person not now employed as a coal or ironstone getter shall be allowed to work alone as a coal or ironstone getter in the face of the workings until he has had two years' experience of such work under the supervision of skilled workmen, or unless he shall have

been previously employed for two years in or about the face of the workings of a mine.

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This is a new rule.

By section 64 it is provided that the owner, agent, or manager of a mine, and the employer, are to be exempted from any penalty for employing any person not being possessed of the necessary experience, if such person has been employed on his own representation, and under the belief in good faith, that he had had two years' experience as required, and the person making the misrepresentation is to be liable under the Act.

Penalty on non-compliance with rules.

50. Every person who contravenes or does not comply with any of the general rules in this [1] Act, shall be guilty of an offence against this Act; and in the event of any contravention of or non-compliance with any of the said general rules in the case of any mine to which this Act applies, by any person whomsoever, [2] the owner agent and manager shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the said rules as regulations for the working of the mine, to prevent such contravention or non-compliance.

This is a re-enactment of the last clause of section 51 ("General Rules") of the former Act.

[1] "Act" is substituted for "section."

[2] The words "being proved," which occurred in the former section, are omitted.

In the case of Wynne *v.* Forrester, it was decided that the agent of a mine subject to the Act of 1872 might be convicted for breach of the regulations prescribed by sections 51 and 52 (corresponding with 49, 50, and 51 of the present Act), although the mine was under the control of a duly certified manager (L. R. 5 C. P. D. 361; Appendix, p. 329).

In the case of Hall *v.* Hopwood (December 3, 1879) the respondent was the certified manager of a colliery which was found by an inspector to have an inadequate amount of ventilation under the 1st general rule of the Act of 1872, which would have required an outlay of £200 to properly remedy. The respondent had advised the directors to undertake this outlay, but he might have improved the ventilation with the resources at his disposal. The justices before whom the respondent was summoned for this breach of the general rule dismissed the

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charge. It was *held*, upon a case stated, that, although not responsible for the omission of substantial alterations by his employer, the respondent could not be said to have proved that he had taken all reasonable means under the circumstances to prevent the non-compliance with the general rule (41 L. T. N. S. 797; Appendix, p. 329).

In the case of Baker *v.* Carter an information had been preferred, under the Act of 1872 (section 51), against the part owner of a coal mine for non-compliance with general rule 22 ("Prevention of Rope "slipping on Drum"). The evidence shewed that the General Rules were put up in various parts of the mine, and that the defendant occasionally visited the mine, but resided at a distance, and took no part in the management, which was under the exclusive control of the certificated manager, who was also part owner.

It was admitted that the defendant had not personally taken any means to enforce the rules. The justices found as a fact that the defendant had taken all reasonable means, by publishing and to the best of his power enforcing the rules as regulations for the working of the mine, to prevent such non-compliance, and dismissed the information.

Held, that there was evidence from which the justices might properly come to that conclusion (L. R. 3 Ex. D. 132; Appendix, p. 330).

In the case of Dickinson *v.* Fletcher, under the Coal Mines Act of 1860, the owner of a mine had appointed a competent person to examine and lock the safety lamps required for use in the mine, but where such person had delivered out certain safety lamps to miners for use in the mine unlocked, it was *held*, that in the absence of any personal default on the part of the owner, he was not liable to a penalty in respect of the act of the person so employed by him (L. R. 9 C. P. Cases 1; Appendix, p. 327).

SPECIAL RULES.

Special rules for every mine.

51. (1.) There shall be established in every mine such rules (referred to in this Act as special rules) for the conduct and guidance of the persons acting in the management of such mine or employed in or about the mine as, under the particular state and circumstances of such mine, may appear best calculated to prevent dangerous accidents, and to provide for the safety [1]convenience and proper discipline of the persons employed in or about the mine.

[1] "Convenience" is new, otherwise the section is the same as in the former Act (52). REPRINT WITH NOTES.

(2.) Such special rules, when established, shall be signed [1]in duplicate by the inspector who is inspector of the district at the time the rules are established, and shall be observed in and about every such mine [2](including any extension thereof) in the same manner as if they were enacted in this Act.

[1] "In duplicate" is new.

[2] The words in parentheses are also new.

(3.) If any person who is bound to observe the special rules established for any mine, acts in contravention of or fails to comply with any of [1]them, he shall be guilty of an offence against this Act, and also the owner agent and manager of such mine [2]shall each be guilty of an offence against this Act unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the rules as regulations for the working of the mine, so as to prevent such contravention or non-compliance.

[1] In the former Act the words were "with any of such "special rules."

[2] The words "shall each be guilty of an offence "against this Act" formed the concluding words of the section in the former Act.

With the alterations pointed out, the section re-enacts section 52 of the former Act.

In the case of Howells *v.* Wynne (June 23, 1863), under 23 & 24 Vict. c. 151, under a certain special rule for regulating the mine, the charter-master was to be the responsible manager of the pit, and the banksman was to take care that the persons descending the pit should in no case exceed eight. The banksman violated such rule by lowering more than eight persons into the pit at one time, and there was evidence that the charter-master was close to the pit, and cognizant of the banksman (who was his servant) so lowering more than eight persons down. *Held*, that such charter-master might be convicted of aiding and abetting the banksman to commit a violation of such rule (32 L. J. [N. S.] M. C. 241; Appendix, p. 330).

In the case of Higham *v.* Wright, under the Act of 1872, by a special rule in force in the H. mine, no person "employed in or about the works" was to ascend the pit contrary to the direction of the hooker-on. In the H.

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mine the workmen had power to dismiss themselves at a moment's notice. The respondents were workmen employed in the H. mine, and, being dissatisfied with their working place, discharged themselves. They asked the hooker-on to allow them to ascend the pit, but he refused to do so until the ordinary time came for workmen to quit the mine; the respondents, however, ascended, contrary to his direction. *Held*, that the respondents had been guilty of a breach of the special rule above mentioned (L. R. 2 C. P. D. 397, 46 L. J. M. C. 223; Appendix, p. 331).

In a case under the Employers' Liability Act, 1880, decided in the Queen's Bench Division on the 12th of July 1887, the plaintiff's husband had been employed in the defendant's coal mine. One of the special rules established in the mine under section 52 of the Act of 1872 required a banksman to be constantly present while the men were going up or down the shaft, but it was the regular practice of the mine, as the plaintiff's husband well knew, not to have a banksman in attendance during the night. The plaintiff's husband was killed in coming out of the mine at night, by an accident arising through the absence of a banksman. It was *held*, that the defence arising from the maxim *volenti non fit injuria* was not applicable in cases where the injury arose from the breach of a statutory duty on the part of the employer, and that the plaintiff was entitled to recover (Baddeley *v.* Earl Granville, L. R. 19 Q. B. D. 423; Appendix, p. 331).

Establishment of new special rules.

52. (1.) The owner agent or manager of every mine shall frame and transmit to the inspector of the district, for approval by a Secretary of State, special rules for the mine within three months after the commencement of this Act, or within three months after the commencement (if subsequent to the commencement of this Act) of any working for the purpose of opening a new mine or of renewing the working of an old mine.

(2.) The proposed special rules, together with a printed notice specifying that any objection to the rules on the ground of anything contained therein or omitted therefrom may be sent by any of the persons employed in the mine to the inspector of the district, at his address, stated in the notice, shall, during not less than two weeks before the rules are transmitted to the inspector, be posted up in like manner as is provided in this Act respecting the publication of special rules for

the information of persons employed in the mine, and a certificate that the rules and notice have been so posted up shall be sent to the inspector with [1]two copies of the rules, signed by the person sending the same. REPRINT WITH NOTES.

[1] "Two copies of" is new.

(3.) If the rules are not objected to by the Secretary of State within forty days after their receipt by the inspector, they shall be established.

This is a re-enactment of section 53 of the former Act.

By section 81 it is provided that special rules in force on the 1st of January 1888 are to continue to be the special rules until new ones are established.

As to mode of publication of special rules see section 57.

53. (1.) If the Secretary of State is of opinion that the proposed special rules so transmitted, or any of them, do not sufficiently provide for the prevention of dangerous accidents in the mine, or for the safety or [1]convenience of the persons employed in or about the mine, or are unreasonable, he may, within forty days after the rules are received by the inspector, object to the rules, and propose to the owner agent or manager in writing any modifications in the rules by way either of omission alteration substitution or addition. Secretary of State may object to special rules.

[1] "Or convenience" is new.

(2.) If the owner agent or manager does not, within twenty days after the modifications proposed by the Secretary of State are received by him, object in writing to them, the proposed special rules, with those modifications, shall be established.

(3.) If the owner agent or manager sends his objection in writing within the said twenty days to the Secretary of State, the matter shall be referred to arbitration [2]under this Act, and the date of the receipt of the objection by the Secretary of State shall be deemed to be the date of the reference, and the rules shall be established as settled by an award on arbitration.

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[2] "Under this Act" is new. This is a re-enactment of the former section 54.

Notice of the appointment of arbitrator must be given to the inspector of the district (section 47).

Amendment of special rules.

54. (1.) After special rules are established under this Act in any mine, the owner agent or manager of the mine may from time to time propose in writing to the inspector of the district, for the approval of a Secretary of State, any amendment of the rules or any new special rules, and the provisions of this Act with respect to the original special rules shall apply to all such amendments and new rules in like manner, as nearly as may be, as they apply to the original rules.

(2.) A Secretary of State may from time to time propose in writing to the owner agent or manager of the mine any new special rules, or any amendment of the special rules, and the provisions of this Act with respect to a proposal of a Secretary of State for modifying the special rules transmitted by the owner agent or manager of a mine shall apply to all such new special rules and amendments in like manner, as nearly as may be, as they apply to the proposal.

This is a re-enactment of the former section 55.

False statements, and neglect to transmit special rules.

55. If the owner agent or manager of any mine makes any false statement with respect to the posting up of the rules and notices, he shall be guilty of an offence against this Act; and if special rules for any mine are not transmitted within the time limited by this Act to the inspector for the approval of a Secretary of State, the owner agent and manager of such mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by enforcing to the best of his power the provisions of this [1]Act, to secure the transmission of the rules.

[1] The word "section" was used in the former Act (section 56), of which this is a re-enactment.

The penalties for an offence against the Act are contained in sections 59 and 60. REPRINT WITH NOTES.

56. An inspector under this Act shall, when required, certify a copy which is shown to his satisfaction to be a true copy of any special rules which for the time being are established under this Act in any mine, and a copy so certified shall be evidence (but not to the exclusion of other proof) of such special rules and of the fact that they are duly established under this Act and have been signed by the inspector. Certified copy of special rules to be evidence.

This is a re-enactment of section 59 of the former Act.

PUBLICATION OF ABSTRACT OF ACT AND OF SPECIAL RULES.

57. For the purpose of making known the provisions of this Act and the special rules to all persons employed in and about each mine, an abstract of this Act supplied, on the application of the owner agent or manager of the mine, by the inspector of the district on behalf of a Secretary of State, and [1]a correct copy of all the special rules shall be published as follows: Publication of abstract of Act and copy of special rules.

[1] In the former Act, section 57, the words were "*an entire copy of the special rules.*"

(2.) The owner agent or manager of the mine shall cause the abstract and [2]copy of the rules, with the [3]name of the mine and the name and address of the inspector of the district, and the name of the owner or agent and of the manager appended thereto, to be posted up in legible characters, in some conspicuous place at or near the mine, where they may be conveniently read by the persons employed; and so often as the same become defaced obliterated or destroyed, shall cause them to be renewed with all reasonable despatch:

[2] "Copy of the" is new.

[3] "Name of the mine" is new. This appears to apply to the abstract furnished by the inspector, which is not the case with the abstract to be given to the persons

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employed under the next sub-section, which has to be a printed copy of the official abstract.

(2.) The owner agent or manager shall supply a printed copy of the abstract and the special rules gratis to each person employed in or about the mine who applies for a copy at the office at which the persons immediately employed by the owner, agent, or manager are paid:

(3.) Every copy of the special rules shall be kept distinct from any rules which depend only on the contract between the employer and employed.

In the event of any non-compliance with the provisions of this section by any person whomsoever, the owner agent and manager shall each be guilty of an offence against this Act; but the owner, agent, or manager of such mine shall not be deemed guilty if he proves that he had taken all reasonable means, by enforcing to the best of his power the observance of this section, to prevent such non-compliance.

Subject to the above alterations this is a re-enactment of the former section 57.

It was decided under the 23 & 24 Vict. c. 151, that the delivery of a copy of the rules was not a condition precedent to the right to enforce them (Higginson *v.* Hapley, 19 L. T. N. S. 690, Q. B.).

Pulling down or defacing notices.

58. Every person who pulls down, injures, or defaces any abstract, notice, proposed special rules, or special rules when posted up in pursuance of the provisions of this Act, or any notice posted up in pursuance of the special rules, shall be guilty of an offence against this Act.

This substantially re-enacts section 58 of the former Act.

PART III.

SUPPLEMENTAL.

[1]LEGAL PROCEEDINGS.

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Penalty for offences against Act.

59. (1.) Every person employed in or about a mine, other than an owner agent or manager, who is guilty of any act or omission which in the case of an owner agent or manager would be an offence against this Act, shall be deemed to be guilty of an offence against this Act.

[1] The heading in the former Act was "Penalties."

(2.) Every person who is guilty of an offence against this Act [2]for which a penalty is not expressly prescribed, shall be liable to a [3]fine not exceeding, if he is an owner agent or manager or [4]under manager, twenty pounds, and if he is any other person, two pounds, for each offence; and if an inspector has given written notice of any such offence, to a further fine not exceeding one pound for every day after such notice that such offence continues to be committed.

[2] "For which a penalty is not expressly prescribed" is new.

[3] "Fine" is substituted for "penalty."

[4] "Under manager" is new.

Imprisonment for wilful neglect endangering life or limb.

60. Where a person who is an owner agent manager or [1]under manager of or a person employed in or about a mine is guilty of any offence against this Act which, in the opinion of the court that tries the case, is one which was reasonably calculated to endanger the safety of the persons employed in or about the mine, or to cause serious personal injury to any of such persons, or to cause a dangerous accident, and was committed wilfully by the personal act, personal default, or personal negligence of the person accused, such person shall be

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liable, if the court is of opinion that a [2]fine will not meet the circumstances of the case, to imprisonment, with or without hard labour, for a period not exceeding three months.

[1] "Under manager" is new.

[2] "Pecuniary penalty" in the former Act.

This is a re-enactment of the first part of section 61 of the former Act. The remaining portion of that section as it related to England, which was not repealed by the Summary Jurisdiction (Repeal, &c.) Act, 1884, is re-enacted in section 63 of the present Act.

Summary proceedings for offences, fines, &c.

61. (1.) All offences under this Act not declared to be misdemeanours, and all [1]fines under this Act, and all money and costs by this Act directed to be recovered as fines, may be prosecuted and recovered in manner directed by the Summary Jurisdiction Acts before a court of summary jurisdiction.

[1] "Penalties" in the former Act.

(2.) Proceedings for the removal of a check weigher shall be deemed to be a matter on which a court of summary jurisdiction has authority by law to make an order in pursuance of the Summary Jurisdiction Acts; and summary orders under this Act may be made on complaint before a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts.

This section re-enacts the first part of section 62 of the former Act. The provisions in the last-named section defining the constitution of Courts of Summary Jurisdiction in England, Scotland, and Ireland are not re-enacted, but see sections 67 and 77 of the present Act.

The Summary Jurisdiction Acts as relates to England are the Acts of 1848, 1879, and 1884.

As to Scotland and Ireland see sections 67, 76, and 77.

General provisions as to summary proceedings.

62. In every part of the United Kingdom the following provision shall have effect:

(i.) Any complaint or information made or laid in pursuance of this Act shall [1](save as otherwise expressly provided by this Act) be made or laid

within three months from the time when the matter of the complaint or information arose: REPRINT WITH NOTES.

[1] The words in parentheses are new: see section 38 (5), giving six months. See also section 16, sub-section 4, as to ten days' notice of intention to apply for injunctions.

(ii.) [2] Any person charged with any offence under this Act, may, if he thinks fit, be sworn and examined as an ordinary witness in the case:

[2] In the former Act this only extended to the owner, agent, or manager.

(iii.) The court shall, if required by either party, cause minutes of the evidence to be taken and preserved.

This provision was contained in the former Act.

The remaining portions of section 63 of the former Act are omitted, having been (as to part) repealed by the Summary Jurisdiction (Repeal, &c.) Act, 1884, and (as to the remainder) rendered unnecessary by the provisions of the Summary Jurisdiction Act, 1879.

As to summary proceedings in Scotland, see section 67.

63. If any person feels aggrieved by any conviction made by a court of summary jurisdiction on determining any information under this Act, by which conviction imprisonment or a fine amounting to or exceeding one half the maximum fine, is adjudged, he may appeal therefrom to a court of quarter sessions in manner provided by the Summary Jurisdiction Acts. Appeal to quarter sessions.

This provision was contained in section 61 of the former Act, and the mode of procedure was set out. That is now provided for by the Summary Jurisdiction Act, 1879 (sections 19 and 31).

The words "in manner provided by the Summary Jurisdiction Acts" are added.

64. If it appears that a boy or girl was employed on the representation of his or her parent or guardian that he or she was of the age at which his or her employment would not be in contravention of this Act, and Liability for misrepresentation as to age, &c.

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under the belief in good faith that he or she was of that age, or that a person has worked alone as a coal or ironstone-getter on his representation that he has had two years' experience of such work under the supervision of skilled workmen, or that he has been previously employed for two years in or about the face of the workings of a mine, and under the belief in good faith that he has had such experience or has been so previously employed, the owner agent or manager of the mine and employer shall be exempted from any penalty, and the parent or guardian or the person who has so worked alone, as the case may be, shall, for the misrepresentation, be deemed guilty of an offence against this Act.

Section 15 (Part II.) of the former Act contained a similar provision as to the employment of "a child, boy, "or young person, or a person employed about an engine, "windlass, or gin."

The portion of the above section as to a person working alone as a coal-getter is new, and has reference to general rule 39.

Prosecution of owners agents managers, &c.

65. No prosecution shall be instituted against the owner agent manager or [1]under manager of a mine for any offence under this Act, [2]not committed personally by such owner agent manager or under manager, which can be prosecuted before a court of summary jurisdiction, except by an inspector or with the consent in writing of a Secretary of State; and in the case of any offence of which the owner agent manager or under manager of a mine is not guilty if he proves that he had taken all reasonable means to prevent the commission thereof, an inspector shall not institute any prosecution against such owner agent manager or under manager, if satisfied that he had taken such reasonable means as aforesaid. [3]No prosecution shall be instituted against a coroner for any offence under this Act except with the consent in writing of a Secretary of State.

[1] "Under manager" is new.

[2] "Not committed personally by such owner agent "manager or under-manager" is new. REPRINT WITH NOTES.

[3] This provision is new (see section 48, as to coroners).

66. Where the owner agent or manager of a mine has taken proceedings under this Act against any person employed in or about a mine in respect of an offence committed under this Act, he shall, within 21 days after the hearing of the case, report the result thereof to the inspector of the district. Report of result of proceedings against workmen.

This is a new provision.

67. In Scotland the following provisions shall have effect: Summary proceedings for offences in Scotland.

(1.) The court of summary jurisdiction when hearing and determining an information or complaint shall be the sheriff:

This sub-section (1) is new.

(2.) All jurisdictions powers and authorities necessary for the court of summary jurisdiction under this Act are hereby conferred on that court:

(3.) Every person found liable under this Act by a court of summary jurisdiction in any [1]fine, or to pay any money or costs by this Act directed to be recovered as fines, shall be liable in default of immediate payment to be imprisoned for a term not exceeding three months, and the conviction and warrant may be in the form of No. 3 of Schedule K. of the Summary Procedure Act, 1864: 27 & 28 Vict. c 53.

[1] "Penalty" in the former Act.

(4.) Any fine exceeding fifty pounds shall be recovered and enforced in the same manner in which any penalty due to Her Majesty under any Act of Parliament may be recovered and enforced:

(5.) An appeal shall not lie from any conviction made by a sheriff, save to the next circuit court, or where there are no circuit courts, to the High Court of Justiciary at Edinburgh, in the manner prescribed

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by such of the provisions of the Act of the twentieth year of the reign of King George the Second, chapter forty-three, and any Acts amending the same, as relate to appeals in matters criminal, and by and under the rules limitations conditions and restrictions contained in the said provisions.

This is a re-enactment of sub-section 3 of the portion of section 61 of the former Act relating to Scotland.

The whole section 67 is in lieu of the provisions, as to Scotland, contained in sections 61, 62, and 65 of the former Act.

Saving for proceedings under other Acts.

68. (1.) Nothing in this Act shall prevent any person from being indicted or liable under any other Act or otherwise to any other or higher penalty or punishment than is provided for any offence by this Act, so, [1] however, that no person be punished twice for the same offence.

(2.) If the court before whom a person is charged with an offence under this Act think that proceedings ought to be taken against such person for such offence under any other Act or otherwise, the court may adjourn the case to enable such proceedings to be taken.

This is a re-enactment of section 66 of the former Act, the word "however" only being added.

Owner of mine, &c. not to act as justice, &c. in proceedings under this Act.

69. A person who is the owner agent or manager of any mine, [1] or a miner or miner's agent, or the father son or brother, [2] or father-in-law, son-in-law, or brother-in-law, of such owner agent or manager, [3] or of a miner or miner's agent, or who is a director of a company being the owner of a mine, shall not, [4] except with the consent of both parties to the case, act as a court or member of a court of summary jurisdiction in respect of any offence under this Act.

[1] The words "or a miner or miner's agent," [2] "or "father-in-law, son-in-law, or brother-in-law," [3] "or of a "miner or miner's agent, or who is a director of a "company being the owner of a mine," [4] "except with "the consent of both parties to the case," are new.

This disqualification only applies to a court of summary jurisdiction. REPRINT WITH NOTES.

70. Where a [1]fine is imposed under this Act for neglecting to send a notice of any explosion or accident or for any offence against this Act which has occasioned loss of life or personal injury, a Secretary of State may (if he thinks fit) direct such fine to be paid to or distributed among the persons injured, and the relatives of any persons whose death may have been occasioned by the explosion accident or offence, or among some of them. Application of fines.

[1] "Penalty" in the former Act.

Provided that—

(i.) Such persons did not in his opinion occasion or contribute to occasion the explosion or accident, and did not commit and were not parties to committing the offence:

(ii.) The fact of the payment or distribution shall not in any way affect or be receivable as evidence in any legal proceeding relative to or consequential on the explosion, accident, or offence.

Save as aforesaid—

[2]All fines recovered in England or Scotland under this Act shall be paid into the receipt of Her Majesty's Exchequer, and shall be carried to the Consolidated Fund;

[3]All fines recovered in Ireland under this Act shall be applied in manner directed by the Fines Act (Ireland), 1851, and any Act amending the same. 14 & 15 Vict. c. 90.

[2] In the former Act the words were "all penalties imposed in pursuance of this Act."

[3] In the former Act, "all penalties imposed and recovered."

With the above alterations the section re-enacts section 68 of the former Act.

Section 69 of the former Act, providing for the 1st of January return of facts relating to the mine, is omitted, being covered by the provisions of section 33 of the present Act requiring the 21st of January return.

MISCELLANEOUS.

REPRINT WITH NOTES.

Decision of question whether a mine is under this Act.

71. If any question arises [1](otherwise than in legal proceedings) whether a mine is a mine to which this Act or the Metalliferous Mines Regulation Act, 1872, [2]or any other Act for the time being in force and relating to metalliferous mines applies, the question shall be referred to a Secretary of State, whose decision thereon shall be final.

[1] The words in parentheses are new.

[2] Also the words "or any other Act for the time being "in force and relating to metalliferous mines."

The Metalliferous Mines Regulation Act, 1872, is the 35 & 36 Vict. c. 77.

Powers of Secretary of State as to making and revoking orders.

72. Any order of or exemption granted by a Secretary of State under this Act may be made, and from time to time revoked, or altered by a Secretary of State, either unconditionally or subject to such conditions as he may see fit, and shall be signed by a Secretary of State or under secretary or assistant under secretary.

This is a new provision. It has reference to the orders of exemption provided for in sections 7, 12 (3), 18, and 49 (general rule 12 (*b*)).

See also proviso in section 84.

Service of notices.

73. All notices under this Act shall (unless expressly required to be in print) be in either writing or print, (including lithograph), or partly in writing and partly in print (including lithograph), and all notices and documents required by this Act to be served or sent by or to an inspector may be either delivered personally, or served and sent by post by a prepaid letter; and, if served or sent by post, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post; and in proving such service or sending it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post.

REPRINT WITH NOTES.

The words in parentheses are new.

As to printed notice, see section 52 (2).

As to notices required to be sent under the present Act, see section 16, sub-section 4 (providing for written notice of intention to apply for an injunction to enforce compliance with the section, being given to the owner, agent, or manager of the mine not less than ten days before the application is made), 19 (notice to inspector of district of division of mine into parts), 20 (notice to inspector of district of manager's name and address), 34 (notice by inspector requiring owner, agent, or manager to cause an accurate plan and section to be made), 35 (notice to inspector of accidents in mines), 38 (notice to owner of mine to comply with requirements of section), 42 (notice by inspector of causes of danger not expressly provided against), 47 (notice of appointment of arbitrator), 48 (notice by coroner of time and place of holding adjourned inquest), 52 (notice that objection may be made to special rules), 59 (notice by inspector of offence against the Act), and 66 (notice (report) of result of proceedings against workmen).

Application of 38 & 39 Vict. c. 55, s. 38.

74. Section thirty-eight of the Public Health Act, 1875 (which relates to privy accommodation for any house used as a factory or building in which both sexes are employed), shall apply to the portions of a mine which are above ground, and in which girls and women are employed, in like manner as if it were herein re-enacted with the substitution of "those portions of the "mine" for the house in the said section mentioned.

This is new.

Section 38 of the Public Health Act, 1875, is as follows:—

"38. *Privy accommodation for factories.*—"Where it "appears to any local authority by the report of their "surveyor that any house is used or intended to be used "as a factory or building in which persons of both sexes "are employed or intended to be employed at one time "in any manufacture, trade, or business, the local "authority may, if they think fit, by a written notice "require the owner or occupier of such house, within the "time therein specified, to construct a sufficient number "of water-closets, earth-closets, or privies, and ashpits "for the separate use of each sex.

"Any person who neglects or refuses to comply with

REPRINT WITH NOTES.

"any such notice shall be liable for each default to a "penalty not exceeding twenty pounds, and to a further "penalty not exceeding forty shillings for every day "during which the default is continued."

As to Scotland, sections 41 and 16 of the Public Health (Scotland) Act, 1867, are to apply (section 76), and

As to Ireland, sections 48 and 107 of the Public Health (Ireland) Act, 1878 (section 77).

Interpretation of terms.

75. In this Act, unless the context otherwise requires,—

"Mine" includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven, [1]and all the shafts, levels, planes, works, [2]tramways, and sidings, both below ground and above ground, in and adjacent to [3]and belonging to the mine:

[1] In the former Act the following words occurred after "driven," viz., "for commencing and opening any mine, "or for searching for or proving minerals." These words now appear in section 18.

[2] "Machinery" was included in the former Act, and

[3] The words "a mine and any such shaft, level, and "inclined plane" were also included.

"Shaft" includes pit:

"Plan" includes a correct copy or tracing of any original plan:

The former definition was as follows:—"'Plan' in- "cludes a map and section, and a correct copy or tracing "of any original plan as so defined."

"Owner," when used in relation to any mine, means any person or body corporate who is the immediate proprietor or lessee, or occupier of any mine, or of any part thereof, and does not include a person or body corporate who merely receives a royalty, rent, or fine from a mine, or is merely the proprietor of a mine subject to any lease, grant, or license for the working thereof, or is merely the owner of the soil, and not interested in the minerals of the mine; but any contractor for the working of any mine, or any part thereof, shall be subject to this

Act in like manner as if he were an owner, but so as not to exempt the owner from any liability: REPRINT WITH NOTES.

This is the same as in the former Act.

The term "owner" includes any member of a partnership (R. *v.* Brown, 7 E. & B. 757).

See the cases of Stott *v.* Dickinson, Evans *v.* Mostyn, and Arkwright *v.* Evans, which are given in the Appendix, pp. 319–321.

A contractor for mineral cannot be the manager of a mine: see section 20.

"Agent," when used in relation to any mine, means any person [1]appointed as the representative of the owner in respect of any mine, or of any part thereof, and [2]as such superior to a manager appointed in pursuance of this Act:

[1] The words "appointed as the representative of the "owner in respect of" are substituted for "having on "behalf of the owner care or direction of."

[2] "As such" is new.

"Secretary of State" means one of Her Majesty's Principal Secretaries of State:

"The Treasury" means the Commissioners of Her Majesty's Treasury:

This is new.

"Boy" means a male under the age of sixteen years:

"Girl" means a female under the age of sixteen years:

The interpretation of the terms "child" (a child under the age of thirteen years) and "young person" (a person of the age of thirteen years and under the age of sixteen years) was contained in the former Act. The terms "child" and "young person" are no longer used.

"Woman" means a female of the age of sixteen years or upwards.

This is practically the same as in the former Act.

76. In the application of this Act to Scotland— Application of Act to Scotland.

(1.) The term "Attorney General" means the Lord Advocate:

REPRINT WITH NOTES.

(2.) The term "injunction" means interdict:

(3.) The term "misdemeanour" means "crime and "offence":

(4.) The term "chairman of quarter sessions" means the sheriff of the county:

(5.) The term "sheriff" includes sheriff substitute:

(6.) The term "attending on subpœna before a "court of record" means attending on citation the Court of Justiciary:

(7.) The auditor of the sheriff court of the county or district of a county in which any inquiry takes place shall perform the duties of a master of one of the superior courts under this Act:

(8.) "County court judge, police magistrate, stipen- "diary magistrate, recorder, or registrar of a county "court" means a sheriff or sheriff substitute:

In the former Act (8) was as follows:—
"The term 'stipendiary magistrate' means a sheriff or "sheriff substitute."

(9.) Notices of explosions, accidents, loss of life, or personal injury shall be deemed to be sent to the inspector of the district on behalf of the Lord Advocate:

30 & 31 Vict. c. 100.

(10.) Sections forty-one and sixteen of the Public Health (Scotland) Act, 1867, shall respectively be substituted for sections thirty-eight and ninety-one of the Public Health Act, 1875.

The provision in the former Act was "Section 16 of "'The Public Health (Scotland) Act, 1867,' shall be "substituted for section 8 of the Nuisances Removal "Act for England, 1855, as amended and extended by "the Sanitary Act, 1866."

(11.) The term "public elementary school" means State-aided school.

This definition is new.

Nothing in this Act shall affect any provision in the Education (Scotland) Acts, 1872 to 1883. REPRINT WITH NOTES.

This is also new.

77. In the application of this Act to Ireland,— Application of Act to Ireland.

(*a.*) The expression "the Summary Jurisdiction "Acts" means, as regards the Dublin metropolitan police district, the Acts regulating the powers and duties of justices of the peace and of the police of that district, and elsewhere, in Ireland, the Petty Sessions (Ireland) Act, 1851, and the Acts amending the same.

(*b.*) In hearing and determining a charge under this Act, a court of summary jurisdiction elsewhere than in the Dublin metropolitan police district, shall be constituted of two or more justices of the peace or of a resident magistrate, with or without other justices, sitting in petty sessions; and a resident magistrate means a magistrate appointed pursuant to the Act of the session of the sixth and seventh years of the reign of King William the Fourth, chapter fourteen:

(*c.*) Sections forty-eight and one hundred and seven of the Public Health (Ireland) Act, 1878, shall respectively be substituted for sections thirty-eight and ninety-one of the Public Health Act, 1875. 41 & 42 Vic. c. 52.

(*d.*) The expression "police or stipendiary magis- "trate" means resident magistrate:

"Master of one of Her Majesty's Superior Courts" means a taxing master of the High Court of Justice in Ireland:

"Registrar of a county court" means clerk of the peace:

"London Gazette" means Dublin Gazette:

"Attorney-General" means Attorney-General for Ireland:

REPRINT WITH NOTES.

"Chairman of quarter sessions" means county court judge.

This is a new section, and is an extension of the provisions, as to Ireland, contained in sections 61 and 72 of the former Act.

TRANSITORY PROVISIONS AND REPEAL.

Existing inspectors and examining boards continued.

78. The persons who at the commencement of this Act are acting as inspectors under the Acts hereby repealed, [1]and the boards for appointing examiners for managers' certificates under those Acts, shall continue to act in the same manner, [2]and generally to be in the same position, as if they had been [3]respectively appointed under this Act.

[1] The words "and the boards for appointing examiners "for managers' certificates under those Acts," [2]"and "generally to be in the same position," and [3]"respec- "tively" are new.

The secretaries to the Boards are continued by order of the Secretary of State. See Appendix, p. 232.

Existing certificates and registers continued.

79. All orders made by a Secretary of State under any Act repealed by this Act, which are in force immediately before the commencement of this Act, shall be deemed to have been made under this Act; and all certificates of competency or of service granted under any Act repealed by this Act which are in force immediately before the commencement of this Act, shall be deemed to be first class certificates granted under this Act; and the register of holders of certificates, and the other registers which at the commencement of this Act are kept in pursuance of the Acts hereby repealed, shall be deemed to be registers or parts of registers kept in pursuance of this Act.

This is new. (See section 72.)

Grant of certificates of service in case of certain under-managers.

80. (1.) A certificate of service shall be granted by a Secretary of State to every person who satisfies him either that before the passing of this Act he was exer-

cising, and has since that date exercised, or that he has at any time within five years before the passing of this Act for a period of not less than twelve months exercised, functions substantially corresponding to those of an under manager in a mine. REPRINT WITH NOTES.

(2.) Every such certificate of service shall contain particulars of the name, place, and time of birth, and the length and nature of the previous service of the person to whom the same is delivered, and a certificate of service may be refused to any person who fails to give a full and satisfactory account of the particulars aforesaid, or to pay such registration fee as the Secretary of State may direct, not exceeding that mentioned in the Second Schedule to this Act.

(3.) A certificate of service granted under this section shall have the same effect for the purposes of this Act as a second class certificate of competency granted under this Act.

(1.) This is new. Section 31 of the former Act empowered a Secretary of State to grant certificates of service under similar conditions to those named in this section, but the words "acted in the capacity of a manager "of a mine" were used in the former Act, for which the words "exercised functions substantially corresponding "to those of an under-manager in a mine" are now substituted.

(2.) This is the same as in the former Act.

(3.) The former Act provided that a certificate of service was to have the same effect as "a certificate of "competency" under that Act.

Existing special rules continued.

81. The special rules which at the commencement of this Act are in force under any Act hereby repealed in any mine shall continue to be the special rules in such mine until special rules are established under this Act for such mine, and while they so continue shall be of the same force as if they were established under this Act.

This is a re-enactment of section 75 of the former Act. (See section 52 as to establishment of new special rules under this Act.)

REPRINT WITH NOTES.

Temporary saving for employment of boys and girls between ten and twelve.

82. The provisions of this Act shall not—

(*a.*) Prevent a boy under the age of twelve years who, before the commencement of this Act, is lawfully employed in any mine below ground from continuing to be employed in a mine; nor

(*b.*) Prevent a boy or girl who, before the commencement of this Act, is lawfully employed above ground in connexion with any mine from continuing to be employed above ground in connexion with a mine; nor

(*c.*) Prevent a competent male person above the age of eighteen years who before the commencement of this Act is lawfully employed in working the machinery used for lowering and raising persons in a mine from continuing to be so employed;

in like manner and subject to the same provisions and regulations as before the commencement of this Act, and the provisions of the Acts repealed by this Act, with respect to the employment of such boy or girl or competent male person shall continue to apply accordingly.

This is new.

Under the former Act (section 5) boys of ten and under twelve years of age might be employed below ground in certain mines by order of a Secretary of State, and under section 12 of that Act a "child" (boy or girl) of ten years of age and upwards might be employed in connection with a mine above ground.

Under this Act the age at which boys can be employed below or above ground has been raised to twelve, and girls employed above ground must be of that age (see section 64).

Construction of references to repealed Acts.

83. Any enactment or document referring to any Act repealed by this Act, or to any enactment thereof, shall be construed to refer to this Act, and to the corresponding enactments thereof.

This is new.

Under this section the exemption of mines from the provisions of the Boiler Explosions Act, 1882 (45 & 46

Vict. c. 22), s. 4, is to be read as if this Act were therein referred to instead of the Act of 1872; and the exemption contained in section 2 of "The Payment of Wages "in Public-houses Prohibition Act, 1883" (46 & 47 Vict. c. 31), is also to be read in the same way. REPRINT WITH NOTES.

84. The Acts described in Schedule Four to this Act are hereby repealed. Repeal of Acts.

Provided that this repeal shall not affect [1]any exemption granted, or other thing done or suffered before the commencement of this Act; and all offences committed and penalties incurred [2]and proceedings commenced before the commencement of this Act may be punished recovered [3]continued and completed in the same manner as if this Act had not passed.

[1] The words "any exemption granted or other," [2] "and "proceedings commenced," and [3] "continued and com- "pleted" are new.

The corresponding section (76) of the former Act was repealed by the Statute Law Revision Act, 1883 (46 & 47 Vict. c. 39), the Acts therein referred to and named in schedule III. to that Act having been separately repealed.

REPRINT WITH NOTES.

SCHEDULES.

Section 24.

SCHEDULE ONE.

PROCEEDINGS of BOARD for EXAMINATIONS.

1. The board shall meet for the despatch of business, and shall from time to time make such regulations with respect to the summoning notice place management and adjournment of such meetings, and generally with respect to the transaction and management of business, including the quorum at meetings of the board, as they think fit, subject to the following conditions:—

(*a.*) Any regulations made by the board constituted under the Acts repealed by this Act, and in force at the commencement of this Act, shall continue in force till repealed or altered by the board.

(*b.*) An extraordinary meeting may be held at any time on the written requisition of three members of the board addressed to the chairman;

(*c.*) The quorum to be fixed by the board shall consist of not less than three members;

(*d.*) Every question shall be decided by a majority of votes of the members present and voting on that question;

(*e.*) The names of the members present, as well as those voting upon each question, shall be recorded;

(*f.*) No business shall be transacted unless notice in writing of such business has been sent to every member of the board seven days at least before the meeting.

2. The board shall from time to time appoint some person to be chairman, and one other person to be vice-chairman.

3. If at any meeting the chairman is not present at the time appointed for holding the same, the vice-chairman

shall be the chairman of the meeting, and if neither the chairman nor vice-chairman shall be present, then the members present shall choose some one of their number to be chairman of such meeting. REPRINT WITH NOTES.

4. In case of an equality of votes at any meeting, the chairman for the time being of such meeting shall have a second or casting vote.

5. The appointment of an examiner may be made by a minute of the board signed by the chairman.

6. The board shall keep minutes of their proceedings which may be inspected or copied by a Secretary of State, or any person authorised by him to inspect or copy the same.

(*a.*) This is new.
This was schedule II. in the former Act.

SCHEDULE TWO.

Sections 25 and 30.

TABLE of MAXIMUM FEES to be paid in respect of CERTIFICATES.

First Class Certificate.

By an applicant for examination .	Two pounds.
For copy of certificate . . .	Five shillings.

Second Class Certificate.

By an applicant for examination .	One Pound.
For copy of certificate . . .	Two shillings and sixpence.

The fee payable on application for a certificate of service as under-manager, under section 80, is five shillings.
This was schedule I. in the former Act.

REPRINT WITH NOTES.
Section 33.

SCHEDULE THREE.

Coal Mines Regulation Act, 1887, 50 & 51 Vict. c. 58.

FORM OF RETURN.

This Form to be correctly filled up by the Owner, Agent, or Manager, and sent to the Inspector of the District, on behalf of the Secretary of State, on or before 21st January every year.

PART A.

Year ending 31 December, 18 .

Name of Mine_____
Situation of Mine_____
County_____
Name of Owner (Company)_____
Name of Manager_____
Name of Under Manager_____
Postal Address_____

RETURN of PERSONS ordinarily employed during the year:—

Under ground .	Boys of 12 and under 16 . .	
	Males above 16	
	Total under ground .	
Above ground (including those employed on sidings and private branch railways and tramways, and in cleaning, washing, and coking of coal).	Boys of 12 and under 13 . .	
	Girls do. . . .	
	Boys of 13 and under 16 . . .	
	Girls do. . . .	
	Females above 16	
	Males do.	
	Total above ground .	
	Total number of persons employed under ground and above ground	

QUANTITY OF MINERAL WROUGHT DURING THE YEAR.

Mineral Wrought.	Number of Statute Tons Wrought.
Coal	
Fireclay	
Ironstone	
Shale—Oil Shale	
Do. used for other purposes .	
Copperas Lumps, or Iron Pyrites .	
Other Minerals, viz.:—	

THE NUMBER OF DAYS IN EACH MONTH ON WHICH COAL OR IRONSTONE HAS BEEN DRAWN.

———	Number of Days on which was drawn.	
	1. Coal.	2. Ironstone.
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		

day of 18 .

(Signed)_____

NOTE.—This return is an extension of that required under section 38 of the former Act. (See section 33 of this Act.)

PART B.

Name of the Mine_____

Name of Seam.	Mode of Ventilation, with Description.	Diameter and Depth of Downcast and Upcast Shafts.				Number of Splits and Quantity.		Airways.		Average Total Quantity of Fresh Air per Minute.
		Downcast.		Upcast.				Length of Splits.	Sectional Area.	
		Diameter in feet.	Depth in feet.	Diameter in feet.	Depth in feet.	Splits.	Quantity in cubic feet per minute.	Yards.	Sq. feet.	Cubic feet.

NOTE.—This part of the return contains the particulars which were required to be given in the 1st of January return under section 69 of the former Act.

SCHEDULE FOUR.

REPRINT WITH NOTES.
Section 84.

REPEAL.

Date of Act.	Title of Act.	Extent of Repeal.
35 & 36 Vict. c. 76. [1872.]	The Coal Mines Regulation Act, 1872.	The whole Act.
44 & 45 Vict. c. 26. [1881.]	The Stratified Ironstone Mines (Gunpowder) Act, 1881.	The whole Act.
49 & 50 Vict. c. 40. [1886.]	The Coal Mines Act, 1886.	The whole Act.

THE TRUCK ACT, 1831

(1 *AND* 2 *WILL. IV. CAP.* 37).

REPRINT OF THE UNREPEALED SECTIONS.

Section 1 of the Truck Amendment Act, 1887, enacts that this Act may be cited as the Truck Act, 1831, and that the two Acts may be cited together as the Truck Acts, 1831 and 1887, and that they are to be construed together as one Act.

An Act to prohibit the Payment, in Certain Trades, of Wages in Goods, or otherwise than in the Current Coin of the Realm.

[15*th October* 1831.

WHEREAS it is necessary to prohibit the payment, in certain trades, of wages in goods, or otherwise than in the current coin of the realm: Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that in all contracts hereafter to be made for the hiring of any artificer in any of the trades hereinafter enumerated, or for the performance by any artificer of any labour in any of the said trades, the wages of such artificer shall be made payable in the current coin of this realm only, and not otherwise; and that if in any such contract the whole or any part of such wages shall be made payable in any manner other than in the current coin aforesaid, such contract shall be and is hereby declared illegal, null, and void.

Contracts for the hiring of artificers must be made in the current coin of the realm:

In the case of Ingram *v.* Barnes (7 El. & Bl. 115, 26 L. J. Q. B. 82, 3 Jur. N. S. 156; *affirmed*, 7 El. & Bl. 132, 26 L. J. Q. B. 339, 3 Jur. N. S. 861) the plaintiff, an illiterate labouring man, attached his mark to a written contract with the defendant, by which he engaged to make as many bricks as the defendant required in his brickfield, finding all labour, the defendant finding the materials, payment to be 10*s.* 6*d.* per thousand for the bricks, when complete. The plaintiff, assisted by others, made bricks, having worked at them personally. In payment, he accepted tickets for goods. Afterwards he sued for the full price, contending that he was an artificer, and that, consequently, the payment by tickets was void.

Held, that the plaintiff, not being bound by his contract to do any part of the work personally, was not an artificer under the Truck Act.

In the case of Pillar *v.* Llynvi Coal and Iron Company (L. R. 4 C. P. 752, 38 L. J. C. P. 294, 24 L. T. 923) it was decided that a workman who works for a coal and iron company, and whose personal skill and labour are of the essence of the contract between him and them, is an artificer within the Truck Act (1 & 2 Will. IV. c. 37), although part of his work for the company was piecework, which he could do at home, and, in fact, get others to do for him, and although sometimes he worked for other people. See also note to section 24.

In the case of Sleeman *v.* Barrett (2 H. & C. 934, 33 L. J. Ex. 153, 10 Jur. N. S. 476, 9 L. T. 834, 12 W. R. 411) it was decided that a butty collier who undertakes for the performance of a piece of work by the day, or ton, or yard, and employs others to assist him, to whom he pays wages, is not an artificer.

In the case of Bowers *v.* Lovekin (6 El. & Bl. 584, 25 L. J. Q. B. 371, 2 Jur. N. S. 1187), under an agreement with a mine owner, two persons were engaged as butty colliers. These colliers got the produce of the mine at so much a yard; they employed others under them to increase the quantity, but they worked personally, and were treated as workmen.

Held, that these colliers were artificers within the Truck Act, the distinction between contractors and artificers depending on the fact whether by the engagement they were labourers.

In the case of Floyd *v.* Weaver (21 L. J. Q. B. 151, 16 Jur. 289) it was decided that the provisions of 1 & 2 Will. IV. c. 37, apply only to agreements for personal service, and not to agreements for the performance of a

certain quantity of work, which the contractor cannot perform except by making use of the labour of others. Also that the mode of paying the wages as specified in the agreement will not prevent a case from coming within the Act.

In the case of Riley *v.* Warden (2 Ex. 59, 18 L. J. Ex. 120) it was decided that the Act 1 & 2 Will. IV. c. 37, is applicable only to those persons who contract as labourers —viz., such as contract to use their personal services, and to receive payment for such services in wages.

and must not contain any stipulations as to the manner in which the wages shall be expended.

II. And be it further enacted, that if in any contract hereafter to be made between any artificer in any of the trades hereinafter enumerated, and his employer, any provision shall be made directly or indirectly respecting the place where, or the manner in which, or the person or persons with whom, the whole or any part of the wages due or to become due to any such artificer shall be laid out or expended, such contract shall be and is hereby declared illegal, null, and void.

All wages must be paid to the workman in coin.

III. And be it further enacted, that the entire amount of the wages earned by or payable to any artificer in any of the trades hereinafter enumerated, in respect of any labour by him done in any such trade, shall be actually paid to such artificer in the current coin of this realm, and not otherwise; and every payment made to any such artificer by his employer, of or in respect of any such wages, by the delivering to him of goods or otherwise than in the current coin aforesaid, except as hereinafter mentioned, shall be and is hereby declared illegal, null, and void.

Payment in goods declared illegal.

Artificers may recover wages, if not paid in the current coin.

IV. And be it further enacted, that every artificer in any of the trades hereinafter enumerated shall be entitled to recover from his employer in any such trade, in the manner by law provided for the recovery of servants' wages, or by any other lawful ways and means, the whole or so much of the wages earned by such artificer in such trade as shall not have been actually paid to him by such his employer in the current coin of this realm.

V. And be it further enacted, that in any action,

In an action brought for wages no set-off shall be allowed for goods supplied by the employer, or by any shop in which the employer is interested.

suit, or other proceeding to be hereafter brought or commenced by any such artificer as aforesaid, against his employer, for the recovery of any sum of money due to any such artificer as the wages of his labour in any of the trades hereinafter enumerated, the defendant shall not be allowed to make any set-off, nor to claim any reduction of the plaintiff's demand, by reason or in respect of any goods, wares, or merchandise had or received by the plaintiff as or on account of his wages or in reward for his labour, or by reason or in respect of any goods, wares, or merchandise sold, delivered, or supplied to such artificer at any shop or warehouse kept by or belonging to such employer, or in the profits of which such employer shall have any share or interest.

No employer shall have any action against his artificer for goods supplied to him on account of wages.

VI. And be it further enacted, that no employer of any artificer in any of the trades hereinafter enumerated shall have or be entitled to maintain any suit or action in any court of law or equity against any such artificer, for or in respect of any goods, wares, or merchandise sold, delivered, or supplied to any such artificer by any such employer, whilst in his employment, as or on account of his wages or reward for his labour, or for or in respect of any goods, wares, or merchandise sold, delivered, or supplied to such artificer at any shop or warehouse kept by or belonging to such employer, or in the profits of which such employer shall have any share or interest.

If the artificer or his wife or children become chargeable to the parish, the overseers may recover any wages earned within the three preceding months, and not paid in cash.

VII. And be it further enacted, that if any such artificer as aforesaid, or his wife or widow, or if any child of any such artificer, not being of the full age of twenty-one years, shall become chargeable to any parish or place, and if within the space of three calendar months next before the time when any such charge shall be incurred such artificer shall have earned or have become entitled to receive any wages for any labour by him done in any of the said trades, which wages shall not have been paid to such artificer in the current coin of this realm, it shall be lawful for the

overseers or overseer of the poor in such parish or place to recover from the employer of such artificer in whose service such labour was done the full amount of wages so unpaid, and to proceed for the recovery thereof by all such ways and means as such artificer himself might have proceeded for that purpose; and the amount of the wages which may be so recovered shall be applied in reimbursing such parish or place all costs and charges incurred in respect of the person or persons to become chargeable, and the surplus shall be applied and paid over to such person or persons.

Not to invalidate the payment of wages in bank notes, if artificer consents.

VIII. Provided always, and be it further enacted, that nothing herein contained shall be construed to prevent or to render invalid any contract for the payment, or any actual payment, to any such artificer as aforesaid, of the whole or any part of his wages, either in the notes of the Governor and Company of the Bank of *England*, or in the notes of any person or persons carrying on the business of a banker, and duly licensed to issue such notes in pursuance of the laws relating to His Majesty's revenue of stamps, or in drafts or orders for the payment of money to the bearer on demand, drawn upon any person or persons carrying on the business of a banker, being duly licensed as aforesaid, within fifteen miles of the place where such drafts or orders shall be so paid, if such artificer shall be freely consenting to receive such drafts or orders as aforesaid, but all payments so made with such consent as aforesaid, in any such notes, drafts, or orders as aforesaid, shall for the purposes of this Act be as valid and effectual as if such payments had been made in the current coin of the realm.

Penalties on employers entering into contracts hereby declared illegal.

IX. And be it further enacted, that any employer of any artificer in any of the trades hereinafter enumerated, who shall, by himself or by the agency of any other person or persons, directly or indirectly enter into any contract or make any payment hereby declared illegal, shall for the first offence forfeit a sum not exceeding ten pounds, and for the second offence any

sum not exceeding twenty pounds nor less than ten pounds, and in case of a third offence any such employer shall be and be deemed guilty of a misdemeanour, and, being thereof convicted, shall be punished by fine only, at the discretion of the Court, so that the fines shall not in any case exceed the sum of one hundred pounds.

NOTE.—Penalties are dealt with in sections 11, 12, and 13 of the Truck Amendment Act, 1887, which is to be construed with this Act.

To constitute an offence against the 1 & 2 Will. IV. c. 37, it is not necessary that the payment of wages in goods instead of money should be the result of any contract or understanding between the employer and the workman. The mere payment is enough (Wilson *v.* Cookson, 13 C. B. N. S. 496, 32 L. J. M. C. 177, 9 Jur. N. S. 177, 8 L. T. 53).

The offence is not purged by a subsequent payment in money, whether made voluntarily, or compulsorily under order of justices.

In the case of a workman (a power-loom weaver) retaining in part satisfaction of wages due, a piece of cloth which he had damaged in weaving, it was—

Held, that the facts disclosed amounted to a payment of wages in goods, and that the Truck Act (1 & 2 Will. IV. c. 37), s. 9, had been infringed (Smith *v.* Walton, 3 C. P. D. 109, 47 L. J. M. C. 45, 37 L. T. 437).

The wife of an artificer received, as his agent, from the master, in payment of wages due to her husband, a written order, which, by the master's direction, she took to his office and exchanged for another, given her by the clerk there; this she presented at a shop close by, named to her by the clerk, and received goods only. The master was convicted for paying wages otherwise than in current coin. The place where the first order was given to her was within the jurisdiction of the justices; but the office where the second order was given, and the shop, were not.

Held, that the conviction was right, and that the offence was complete at the time of the delivery of the first order (Athersmith *v.* Drury, 1 El. & Bl. 46, 28 L. J. M. C. 5, 5 Jur. N. S. 433).

X. * * * * *

Proviso. Provided always, that no person shall be punished

as for a second offence under this Act unless ten days at the least shall have intervened between the conviction of such person for the first and the conviction by such person of the second offence, but each separate offence committed by any such person before the expiration of the said term of ten days shall be punishable by a separate penalty, as though the same were a first offence; and that no person shall be punished as for a third offence under this Act, unless ten days at the least shall have intervened between the conviction of such person for the second and the conviction by such person of the third offence; but each separate offence committed by any such person before the expiration of the said term of ten days shall be punishable by a separate penalty, as though the same were a second offence; and that the fourth or any subsequent offence which may be committed by any such person against this Act shall be inquired of, tried, and punished in the manner hereinbefore provided in respect of any third offence; and that if the person or persons preferring any such information shall not be able or shall not see fit to produce evidence of any such previous conviction or convictions as aforesaid, any such offender as aforesaid shall be punished for each separate offence by him committed against the provisions of this Act by an equal number of distinct and separate penalties, as though each of such offences were a first or a second offence, as the case may be; and that no person shall be proceeded against or punished as for a second or as for a third offence at the distance of more than two years from the commission of the next preceding offence.

A partner not to be liable in person for the offence of his co-partner, but the partnership property to be so liable.

XIII. And be it further enacted, that no person shall be liable to be convicted of any offence against this Act committed by his or her co-partner in trade, and without his or her knowledge, privity, or consent; but it shall be lawful, when any penalty, or any sum for wages, or any other sum, is ordered to be paid, under the authority of this Act, and the person or persons

ordered to pay the same shall neglect or refuse to do so to levy the same by distress and sale of any goods belonging to any co-partnership concern or business in the carrying on of which such charges may have become due or such offence may have been committed; and in all proceedings under this Act to recover any sum due for wages it shall be lawful in all cases of co-partnership for the justices, at the hearing of any complaint for the non-payment thereof, to make an order upon any one or more co-partners for the payment of the sum appearing to be due; and in such case the service of a copy of any summons or other process, or of any order, upon one or more of such co-partners, shall be deemed to be a sufficient service upon all.

How summonses are to be served.

XIV. And it is declared and enacted, that in all cases it shall be deemed and taken to be sufficient service of any summons to be issued against any offender or offenders by any justice or justices of the peace, under the authority of this Act, if a duplicate or true copy of the same be left at or upon the place used or occupied by such offender or offenders for carrying on his, her, or their trade or business, or at the place of residence of any such offender or offenders, being at or upon any such place as aforesaid, the same being directed to such offender or offenders by his, her, or their right or assumed name or names.

* * * * *

Convictions not to be quashed for want of form.

XVII. And be it further enacted, that no conviction, order, or adjudication made by any justices of the peace under the provisions of this Act shall be quashed for want of form, nor be removed by certiorari or otherwise into any of His Majesty's superior courts of record.

* * * * *

Domestics.

XX. And be it further enacted, that nothing herein contained shall extend to any domestic servant. * *

* * * * *

XXIII. And be it further enacted and declared, that

nothing herein contained shall extend or be construed to extend to prevent any employer of any artificer, or agent of any such employer, from supplying or contracting to supply to any such artificer any medicine or medical attendance, or any fuel, or any materials, tools, or implements to be by such artificer employed in his trade or occupation, if such artificers be employed in mining, or any hay, corn, or other provender to be consumed by any horse or other beast of burden employed by any such artificer in his trade and occupation; nor from demising to any artificer, workman, or labourer employed in any of the trades or occupations enumerated in this Act the whole or any part of any tenement at any rent to be thereon reserved; nor from supplying or contracting to supply to any such artificer any victuals dressed or prepared under the roof of any such employer, and there consumed by such artificer; nor from making or contracting to make any stoppage or deduction from the wages of any such artificer for or in respect of any such rent, or for or in respect of any such medicine or medical attendance; or for or in respect of such fuel, materials, tools, implements, hay, corn, or provender, or of any such victuals dressed and prepared under the roof of any such employer; or for or in respect of any money advanced to such artificer for any such purpose as aforesaid: Provided always, that such stoppage or deduction shall not exceed the real and true value of such fuel, materials, tools, implements, hay, corn, and provender, and shall not be in any case made from the wages of such artificer, unless the agreement or contract for such stoppage or deduction shall be in writing, and signed by such artificer.

Particular exceptions to the generality of the law.

The conditions of employment in a colliery provided for deductions from miners' wages for house-rent, medical attendance, &c. The pay-tickets bore on their face that such deductions were made, and were signed by the miners on receiving wages.

Held, that the signed pay-tickets did not form a written contract in the sense of the Truck Act, 1831, and that miners who had signed them were therefore

not barred from objecting to such deductions and sueing for wages as still due (Hynd *v.* Spowart, 22 Scot. Law Rep. 702).

It has been held, in the case of deductions by an employer for medicine, medical attendance, materials, &c., that the amount to be deducted in respect of each head of deduction need not be specified in the written contract: but see the provision contained in section 9 of the Truck Amendment Act, 1887, for an annual audit of all deductions.

Under a contract, in writing, allowing a stoppage to be made for medicine and medical attendance, the employer may deduct sixpence a week, which by the practice of the trade was paid by each miner towards a club kept by the employer for the purpose of providing medicine and medical attendance to such miners as required them (Cutts *v.* Ward, L. R. 2 Q. B. 357, 36 L. J. Q. B. 161, 15 L. T. 614).

Employers may advance money to artificers for certain purposes.

XXIV. And be it further enacted and declared, that nothing herein contained shall extend or be construed to extend to prevent any such employer from advancing to any such artificer any money to be by him contributed to any friendly society or bank for savings duly established according to law, nor from advancing to any such artificer any money for his relief in sickness, or for the education of any child or children of such artificer, nor from deducting or contracting to deduct any sum or sums of money from the wages of such artificers for the education of any such child or children of such artificer. * * *

An employer stopped part of the wages of an artificer as a contribution to funds established by him to provide medicine and medical attendance for the artificers employed by him, and schools for their children, without any written agreement with the artificer.

Held, that the artificer was entitled to recover the whole of the deductions under 1 & 2 Will. IV. c. 37, s. 24 (Pillar *v.* Llynvi Coal and Iron Company, L. R. 4 C. P. 752, 38 L. J. C. P. 294, 20 L. T. 923).

The Truck Amendment Act, 1887, repeals the enactment in the above-named section of the principal Act requiring the agreement to be in writing, but it will be observed that section 23 of the principal Act, which mentions "medicine or medical attendance," provides that

deductions in respect thereof are not to be made unless the agreement or contract for such stoppage or deduction is in writing and signed by the workman. (See also note to section 1.)

Definition of terms.

XXV. And be it further enacted and declared, that in the meaning and for the purposes of this Act . . . . any agreement, understanding, device, contrivance, collusion, or arrangement whatsoever on the subject of wages, whether written or oral, whether direct or indirect, to which the employer and artificer are parties or are assenting, or by which they are mutually bound to each other, or whereby either of them shall have endeavoured to impose an obligation on the other of them, shall be and be deemed a "contract."

Payment in goods.—Where, by terms of a contract, a service to be performed by A. for B. is to be paid for in goods, A. cannot declare for the value of the service; he must sue on the special contract. But if B. by his own act renders the delivery of the goods impossible, A. may sue for the value of the service. So, if B. allows the goods to be sold under an execution against him (Keys *v.* Harwood, 2 C. B. 905, 15 L. J. C. P. 207).

See cases quoted under section 1.

To extend over Great Britain.

XXVII. And be it further enacted, that the provisions of this Act shall extend over the whole of that part of the United Kingdom of *Great Britain* and *Ireland* called *Great Britain*.

TRUCK AMENDMENT ACT, 1887

(50 *AND* 51 *VICT. CAP.* 46).

A.D. 1887.

ARRANGEMENT OF SECTIONS.

SECT.

1. Short title.
2. Application of principal Act to workman as defined by 38 & 39 Vict. c. 90.
3. Advance of wages.
4. Saving for servant in husbandry.
5. Order for goods as a deduction from wages illegal.
6. No contracts with workman as to spending wages at any particular shop, &c.
7. Deduction for education.
8. Deduction for sharpening tools, &c.
9. Audit of deductions.
10. Artificer to be paid in cash and not by way of barter for articles made by him.
11. Offences.
12. Fine on person committing offence for which employer is liable, and power of employer to exempt himself from penalty on conviction of actual offender.
13. Recovery of penalties.
14. Definitions.
15. Disqualification of justice.
16. Amendment of 1 & 2 Will. IV. c. 37, as to overseers.
17. Repeal.
18. Application of Acts to Ireland.

SCHEDULE.

50 AND 51 VICTORIÆ, CAP. 46.

An Act to amend and extend the Law relating to Truck.

[16*th September* 1887.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: A.D. 1887.

1. This Act may be cited as the Truck Amendment Act, 1887. The Act of the session of the first and second years of the reign of King William the Fourth, chapter thirty-seven, intituled "An Act to prohibit the "payment in certain trades of wages in goods or other- "wise than in the current coin of the realm" (in this Act referred to as the principal Act), may be cited as the Truck Act, 1831, and that Act and this Act may be cited together as the Truck Acts, 1831 and 1887, and shall be construed together as one Act. Short title. 1 & 2 Will. IV. c. 37.

2. The provisions of the principal Act shall extend to, apply to, and include any workman as defined in the Employers and Workmen Act, 1875, section ten, and the expression "artificer" in the principal Act shall be construed to include every workman to whom the principal Act is extended and applied by this Act, and all provisions and enactments in the principal Act inconsistent herewith are hereby repealed. Application of principal Act to workman as defined by 38 & 39 Vict. c. 90.

NOTE.—The definition in the Act of 1875 is given at p. 82.

3. Whenever by agreement, custom, or otherwise a

A.D. 1887.
Advance of wages.

workman is entitled to receive in anticipation of the regular period of the payment of his wages an advance as part or on account thereof, it shall not be lawful for the employer to withhold such advance or make any deduction in respect of such advance on account of poundage, discount, or interest, or any similar charge.

Saving for servant in husbandry.

4. Nothing in the principal Act or this Act shall render illegal a contract with a servant in husbandry for giving him food, drink, not being intoxicating, a cottage, or other allowances or privileges in addition to money wages as a remuneration for his services.

NOTE.—As to intoxicating liquor, see note on p. 86.

Order for goods as a deduction from wages illegal.

5. In any action brought by a workman for the recovery of his wages, the employer shall not be entitled to any set off or counterclaim in respect of any goods supplied to the workman by any person under any order or direction of the employer, or any agent of the employer, and the employer of a workman or any agent of the employer, or any person supplying goods to the workman under any order or direction of such employer or agent, shall not be entitled to sue the workman for or in respect of any goods supplied by such employer or agent, or under such order or direction, as the case may be.

Provided that nothing in this section shall apply to anything excepted by section twenty-three of the principal Act.

No contracts with workman as to spending wages at any particular shop, &c.

6. No employer shall, directly or indirectly, by himself or his agent, impose as a condition, express or implied, in or for the employment of any workman any terms as to the place at which, or the manner in which, or the person with whom, any wages or portion of wages paid to the workman are or is to be expended, and no employer shall by himself or his agent dismiss any workman from his employment for or on account of the place at which, or the manner in which, or the person with whom, any wages or portion of wages paid by the employer to such workman are or is expended or fail to be expended.

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Deduction for education.

7. Where any deduction is made by an employer from a workman's wages for education, such workman on sending his child to any State-inspected school selected by the workman shall be entitled to have the school fees of his child at that school paid by the employer at the same rate and to the same extent as the other workmen from whose wages the like deduction is made by such employer.

In this section "State-inspected school" means any elementary school inspected under the direction of the Education Department in England or Scotland or of the Board of National Education in Ireland.

NOTE.—Under the Coal Mines Regulation Act, 1887, the payment of school fees, within certain limits, out of wages is provided for by section 10.

Deduction for sharpening tools, &c.

8. No deduction shall be made from a workman's wages for sharpening or repairing tools, except by agreement not forming part of the condition of hiring.

Audit of deductions.

9. Where deductions are made from the wages of any workmen for the education of children or in respect of medicine, medical attendance, or tools, once at least in every year the employer shall, by himself or his agent, make out a correct account of the receipts and expenditure in respect of such deductions, and submit the same to be audited by two auditors appointed by the said workmen, and shall produce to the auditors all such books, vouchers, and documents, and afford them all such other facilities as are required for such audit.

Artificer to be paid in cash and not by way of barter for articles made by him.

10. Where articles are made by a person at his own home, or otherwise, without the employment of any person under him except a member of his own family, the principal Act and this Act shall apply as if he were a workman, and the shopkeeper, dealer, trader, or other person buying the articles in the way of trade were his employer, and the provisions of this Act with respect to the payment of wages shall apply as if the price of an article were wages earned during the seven days next

A.D. 1887.

preceding the date at which any article is received from the workman by the employer.

This section shall apply only to articles under the value of five pounds knitted or otherwise manufactured of wool, worsted, yarn, stuff, jersey, linen, fustian, cloth, serge, cotton, leather, fur, hemp, flax, mohair, or silk, or of any combination thereof, or made or prepared of bone, thread, silk, or cotton lace, or of lace made of any mixed materials. Where it is made to appear to Her Majesty the Queen in Council that, in the interests of persons making articles to which this section applies in any county or place in the United Kingdom, it is expedient so to do, it shall be lawful for Her Majesty, by Order in Council, to suspend the operation of this section in such county or place, and the same shall accordingly be suspended, either wholly or in part, and either with or without any limitations or exceptions, according as is provided by the Order.

Offences.

11. If any employer or his agent contravenes or fails to comply with any of the foregoing provisions of this Act, such employer or agent, as the case may be, shall be guilty of an offence against the principal Act, and shall be liable to the penalties imposed by section nine of that Act as if the offence were such an offence as in that section mentioned.

NOTE.—It will be seen on reference to this section, ante, p. 209, that the penalties are heavy.

Fine on person committing offence for which employer is liable, and power of employer to exempt himself from penalty on conviction of actual offender.

12. (1.) Where an offence for which an employer is, by virtue of the principal Act or this Act, liable to a penalty has in fact been committed by some agent of the employer or other person, such agent or other person shall be liable to the same penalty as if he were the employer.

(2.) Where an employer is charged with an offence against the principal Act or this Act he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed

for hearing the charge, and if, after the commission of the offence has been proved the employer proves to the satisfaction of the court that he had used due diligence to enforce the execution of the said Acts, and that the said other person had committed the offence in question without his knowledge, consent, or connivance, the said other person shall be summarily convicted of such offence, and the employer shall be exempt from any penalty. A.D. 1887.

When it is made to appear to the satisfaction of an inspector of factories or mines, or in Scotland a procurator fiscal, at the time of discovering the offence, that the employer had used due diligence to enforce the execution of the said Acts, and also by what person such offence had been committed, and also that it had been committed without the knowledge, consent, or connivance of the employer, then the inspector or procurator fiscal shall proceed against the person whom he believes to be the actual offender in the first instance without first proceeding against the employer.

13. (1.) Any offence against the principal Act or this Act may be prosecuted, and any penalty therefor recovered in manner provided by the Summary Jurisdiction Acts, so, however, that no penalty shall be imposed on summary conviction exceeding that prescribed by the principal Act for a second offence. Recovery of penalties.

(2.) It shall be the duty of the inspectors of factories and the inspectors of mines to enforce the provisions of the principal Act and this Act within their districts so far as respects factories, workshops, and mines inspected by them respectively, and such inspectors shall for this purpose have the same powers and authorities as they respectively have for the purpose of enforcing the provisions of any Acts relating to factories, workshops, or mines, and all expenses incurred by them under this section shall be defrayed out of moneys provided by Parliament.

(3.) In England all penalties recovered under the

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principal Act and this Act shall be paid into the receipt of Her Majesty's Exchequer, and be carried to the Consolidated Fund.

(4.) In Scotland—

(*a.*) The procurators fiscal of the sheriff court shall, as part of their official duty, investigate and prosecute offences against the principal Act or this Act, and such prosecution may also be instituted in the sheriff court at the instance of any inspector of factories or inspector of mines;

(*b.*) All offences against the said Acts shall be prosecuted in the sheriff court.

Definitions.

14. In this Act, unless the context otherwise requires,—

The expression "Summary Jurisdiction Acts" means, as respects England, the Summary Jurisdiction Acts as defined by the Summary Jurisdiction Act, 1879; and, as respects Scotland, means the Summary Jurisdiction (Scotland) Acts, 1864 and 1881, and any Acts amending the same:

Other expressions have the same meaning as in the principal Act.

Disqualification of justice.

15. So much of the principal Act as disqualifies any justice from acting as such under the principal Act is hereby repealed.

A person engaged in the same trade or occupation as an employer charged with an offence against the principal Act or this Act shall not act as a justice of the peace in hearing and determining such charge.

Amendment of 1 & 2 Will. IV. c. 37 as to overseers.

16. The provisions of the principal Act conferring powers on any overseers or overseer of the poor shall be deemed to confer those powers in the case of England on the guardians of a union, and in the case of Scotland on the inspectors of the poor.

Repeal.

17. The Acts mentioned in the schedule to this Act are hereby repealed to the extent in the third column of the said schedule mentioned, without prejudice

to anything heretofore done or suffered in respect thereof. A.D. 1887.

Application of Acts to Ireland.

18. The principal Act, so far as it is not hereby repealed, and this Act shall extend to Ireland, subject to the following provisions:

(1.) Any offence against the principal Act or this Act may be prosecuted and any penalty therefor may be recovered in the manner provided by the Summary Jurisdiction (Ireland) Acts; (that is to say,) within the Dublin Metropolitan Police District the Acts regulating the powers and duties of justices of the peace and of the police of that district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, and the Acts amending the same;

(2.) Penalties recovered under the principal Act or this Act shall be applied in the manner directed by the Fines (Ireland) Act, 1851, and the Acts amending the same.

SCHEDULE.*

Session and Chapter.	Title of Act.	Extent of Repeal.
12 Geo. I. c. 34.	An Act to prevent unlawful combinations of workmen employed in the woollen manufactures, and for better payment of their wages.	Section three, and so much of section eight as applies section three.
22 Geo. II. c. 27.	An Act, the title of which begins with "An Act for the more "effectual preventing "of frauds," and ends with the words "and "for the better pay-"ment of their "wages."	So much of section twelve as applies to any enactment repealed by this Act.

* The various Acts mentioned in this schedule have been repealed wholly or in part by many previous Acts, and we believe that the sections of the two Acts before given are the only ones now in force.

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SCHEDULE—(*continued*).

Session and Chapter.	Title of Act.	Extent of Repeal.
30 Geo. II. c. 12.	An Act, the title of which begins with the words "An Act to "amend an Act," and ends with the words "payment of the "workmen's wages "in any other manner "than in money."	Sections two and three.
57 Geo. III. c. 115.	An Act, the title of which begins with the words "An Act to "extend the provi- "sions of an Act," and ends with the words "articles of "cutlery."	The whole Act.
57 Geo. III. c. 122.	An Act, the title of which begins with the words "An Act to "extend the provi- "sions," and ends with the words "ex- "tending the provi- "sions of the said "Acts to Scotland "and Ireland."	The whole Act.
1 & 2 Will. IV. c. 37.	An Act to prohibit the payment in certain trades of wages in goods or otherwise than in the current coin of the realm.	Section ten, down to "be "produced to the court and "jury" inclusive; section eleven, section twelve, section fifteen, section sixteen, section eighteen, section nineteen, in section twenty the words "or ser- "vant in husbandry;" section twenty-one, section twenty-two, section twenty-four from "and unless the "agreement" inclusive to end of section, and section twenty-five from "all "workmen" to "purposes "aforesaid" both inclusive, and the schedules.

APPENDIX.

[OFFICIAL FORM.]

COAL MINES REGULATION ACT, 1887.

50 & 51 Vict. c. 58, s. 8.

REGISTER.

_____ *Mine.* _____ *Manager.*

Boys employed Below Ground.

From day of 18 to day of 18 .

Note.—This may be examined and copied by any Inspector, or Officer of a School Board or School Attendance Committee in the District.

Name.	Date of Birth.	Residence.	Date of First Employment.	Remarks.

[OFFICIAL FORM.]

COAL MINES REGULATION ACT, 1887.

50 & 51 Vict. c. 58, s. 8.

_____ *Mine.* _____ *Manager.*

Boys employed Above Ground.

From day of 18 to day of 18 .

Name.	Date of Birth.	Residence.	Date of First Employment.	Remarks.

[OFFICIAL FORM.]

COAL MINES REGULATION ACT, 1887.

50 & 51 Vict. c. 58, s. 8.

_____ *Mine.* _____ *Manager.*

Girls employed Above Ground.

From day of 18 to day of 18 .

Name.	Date of Birth.	Residence.	Date of First Employment.	Remarks.

[OFFICIAL FORM.]

COAL MINES REGULATION ACT, 1887.

50 & 51 Vict. c. 58, s. 8.

_____ *Mine.* _____ *Manager.*

Women employed Above Ground.

From day of 18 to day of 18 .

Name.	Residence.	Date of First Employment.	Remarks.

NOTE.—Since this register was issued, the Home Office have issued another register, called "an alternative form of register," which will be found on the next page.

MEMORANDUM.

The accompanying Form of Employment Register under section 8 of the Coal Mines Regulation Act, 1887, is issued as an alternative Form in a more convenient shape than the corresponding Forms printed with the Abstract of the Act.

HOME OFFICE, WHITEHALL, *February* 1, 1888.

[OFFICIAL.]

COAL MINES REGULATION ACT, 1887.
50 & 51 Vict. c. 58, s. 8.
List of Persons employed under the Age of 16 Years.

REGISTER 1. _____ Mine. Manager _____

From day of 188 , to day of 188 .

Name.	No. or Name of Pit.	Date of Birth.	Residence.	Date of First Employment.	Above Ground.					Below Ground.	Remarks.
					Boys 12 to 13 years.	Boys 13 to 16 years.	Girls 12 to 13 years.	Girls 13 to 16 years.	Women above 16 years.	Boys 12 to 16 years.	

[OFFICIAL.]

DISTRICT BOARDS AND CERTIFICATES OF COMPETENCY.

COAL MINES REGULATION ACT, 1887.

50 & 51 Vict. c. 58.

NOTICES AS TO CERTIFICATES OF COMPETENCY, FIRST AND SECOND CLASS.

Notice relating to District Boards for Appointing Examiners.

WHEREAS, in pursuance of section 78 of the above-mentioned Act, the Boards for appointing Examiners for Certificates of Competency under the repealed Coal Mines Regulation Act, 1872, continue to act and generally to be in the same position as if they had been respectively appointed under the said Act of 1887; and whereas, in pursuance of section 23 of the said Act of 1887, the Secretary of State for the Home Department has determined that the said Boards shall continue to be constituted as heretofore for each district in charge of an inspector of mines: Notice is hereby given that the under-mentioned persons are appointed to act as secretaries to the several Boards for Examinations for the purpose of the grant of managers' and under-managers' certificates of competency under the above-named Act of 1887.

Applicants desirous of being examined for first or second class certificates of competency should, therefore, apply for all necessary information to the secretary to the Board for that district in which they desire to be examined.

No. of Mining District.	Name of Mining District.	Name and Address of Mines Inspector.	Name and Address of the Secretary to the Board for Examinations.
1	East Scotland district, comprising counties of Clackmannan, Perth, Kinross, Sutherland, Edinburgh, Fife, Haddington, Linlithgow, upper and middle wards of Lanark, and part of Stirling.	R. Moore, Esq., Glasgow.	Robert Calder, Esq., 3 Fintry Place, Broughty Ferry, N.B.
2	Scotland West district, comprising counties of Argyle, Ayr, Dumfries, Dumbarton, Renfrew, and portions of Lanark and Stirling.	J.M.Ronaldson,Esq., 44 Athole Gardens, Glasgow.	Stewart Foulis, Esq., 135 St. Vincent St., Glasgow.

No. of Mining District.	Name of Mining District.	Name and Address of Mines Inspector.	Name and Address of the Secretary to the Board for Examinations.
3	Newcastle district, comprising counties of Cumberland, Northumberland, and part of Durham.	James Willis, Esq., Newcastle-on-Tyne.	F. Gosman, Esq., Coal Trade Office, Newcastle-on-Tyne.
4	Durham district, comprising county of Westmoreland, part of Durham, and North Riding of Yorkshire.	Thomas Bell, Esq., Durham.	Geo. W. Bartlett, Esq., Tees Grange, Darlington.
5	Yorkshire and Lincolnshire district, comprising Yorkshire, exclusive of North Riding and Lincolnshire.	F. N. Wardell, Esq., Wath-upon-Dearne, Rotherham.	J. R. Jeffery, Esq., 5 Piccadilly, Bradford.
6	Manchester district, comprising North and East Lancashire and Ireland.	J. Dickinson, Esq., South Bank, Pendleton, Manchester.	M. W. Peace, Esq., 18 King Street, Wigan.
7	Liverpool district, comprising counties of Anglesey, Denbigh, Flint, and West Lancashire.	Henry Hall, Esq., Rainhill, Prescot.	M. W. Peace, Esq., 18 King Street, Wigan.
8	Midland district, comprising counties of Derby, Leicester, Nottingham, and Warwick.	A. H. Stokes, Esq., Greenhill, Derby.	W. Saunders, Esq., Wilson Street, Derby.
9	(Metalliferous Mining district.)		
10	North Staffordshire district, comprising North Staffordshire, Cheshire, and Shropshire.	Thomas Wynne, Esq., Gnosall, Stafford.	J. Knight, Esq., Newcastle-under-Lyme, Staffordshire.
11	South Staffordshire district, comprising South Staffordshire and Worcestershire.	W. B. Scott, Esq., Parkdale, Wolverhampton.	W. Blackemore, Esq., Shelfield, near Walsall.
12	South-western district, comprising the counties of Devon, Dorset, Gloucester, Monmouth, Somerset, and portions of Brecon and Glamorgan.	J. S. Martin, Esq., Durdham Park, Redlands, near Bristol.	J. S. Thomas, Esq., Forest House, Coleford.
13	South Wales district, comprising counties of Carmarthen, Pembroke, and parts of Brecon and Glamorgan.	J. T. Robson, Esq., St. Helen's Road, Swansea.	C. H. James, Esq., 8 Courtland Terrace, Merthyr Tydfil.
14	(Metalliferous Mining district.)		

CERTIFICATES OF COMPETENCY.

The fee to be paid by an Applicant for Examination is—

(1) For a 1st Class Certificate of Competency, £2.

(2) For a 2nd Class Certificate of Competency, £1.

Any person desirous of being examined must make an application to the Secretary of State, in the form hereunder set forth, enclosing therein a Post Office Order, or Postal Note, for the fee of £2 or £1, as the case may be, in favour of Carey Knyvett, Esq., C.B., Home Office, Whitehall, London, S.W., made payable at the General Post Office. The applicant will then receive from the Home Office an authority to present himself for examination before the examiners appointed for the district.

FORM OF APPLICATION FOR EXAMINATION.

Date _____

Full Postal Address _____

SIR,

I beg to inform you that I am desirous of presenting myself to be examined by the Examiners for the District of for a (First or Second Class) Certificate of Competency as (Manager or Under-Manager) of a mine, and I enclose a Post Office Order for the sum of (£2 or £1).

I am, Sir,
Your obedient Servant,

_____

To the Right Hon. the Secretary
of State for the Home Department.

To be accompanied by statement, on paper of foolscap size:—

1. Name and address, in full, of applicant for (First or Second Class) Certificate.	1.
2. Name of the district in which the applicant wishes to be examined.	2.

CERTIFICATES OF SERVICE.

NOTICES.—CERTIFICATES OF SERVICE.

Notice relating to Applicants for Certificates of Service.

Any person who satisfies the Secretary of State either that before the passing of the Act (16th September 1887) he was exercising, and has since that date exercised, or that he has at any time within five years before the passing of the Act, for a period of not less than twelve months, exercised functions substantially corresponding to those of an under-manager in a mine, is entitled to a Certificate of Service, which shall have the same effect, for the purposes of the Act, as a second-class certificate of competency granted under the Act (sec. 80).

The fee to be paid by an applicant for a certificate of service is five shillings.

Forms of application, containing full directions and particulars, will be supplied to applicants by the Home Office, on request being made in the form hereunder :—

SIR,

I beg to apply for a Form of Application for a Certificate of Service as Under-Manager of a Mine.

I am, Sir,

Your obedient Servant,

To the Right Hon. the Secretary
of State for the Home Department.

[OFFICIAL FORM.]

The Applicant is only to write on this page and on the second page of the Form.

COAL MINES REGULATION ACT, 1887.

50 & 51 Vict. c. 58, sec. 80.

Form of Application for a Certificate of Service as Under-Manager.

The FEE to be paid in respect of a Certificate of Service as Under-Manager is FIVE SHILLINGS.

(*Here insert*) Address____ _____

„ Date_____

Here pin on Post Office Order or Note.

SIR,

I beg to apply for a Certificate of Service as Under Manager in a Mine, and enclose a Post Office Order (or Postal Note) for the sum of Five Shillings (5*s.*), made payable to Carey Knyvett, Esq., C.B., at the General Post Office, London, E.C.

I am, Sir,
Your obedient Servant,

*Signature of Applicant*_____ _____

The Right Honourable the Secretary
of State for the Home Department,
Whitehall, London, S.W.

[TURN OVER.]

Statement of Particulars to be very carefully filled up and signed by Applicant.

1. Name and full postal address of applicant for Certificate of Service.	1.
2. The name of the mine in which (if any) the applicant is acting.	2.
3. The name of the district of the inspector in which (if any) the applicant is acting.	3.
4. Place of birth of applicant.	4.
5. Date of birth of applicant.	5.
6. Length and nature of previous service of applicant.	6.
7. Name and address of any person to whom reference may, if necessary, be made for verification of these particulars.	7.

Signature of Applicant _____

This Application is to be enclosed in the Envelope sent herewith.

The Applicant is not to Write on this Page.

APPLICATION FOR UNDER-MANAGER'S CERTIFICATE OF SERVICE UNDER THE COAL MINES REGULATION ACT, 1887 (50 & 51 VICT. c. 58), s. 80.

Name

Inspector's District

MINUTES.

Referred to Inspector

INSPECTOR'S REPORT.

MINUTES.

RULES AS TO EXAMINING BOARDS.

(COAL MINES REGULATION ACT, 1887, ss. 23 AND 31.)

I. Each member of the Board for Examinations will be allowed the sum of £1 10*s.* 0*d.*, to cover all his travelling and personal expenses, for each meeting attended by him, provided that the total amount claimed does not exceed £7 per annum.

II. The allowance (rule I.) will be paid to each member upon receipt of his claim by the Home Office. Form A.

III. The Board will from time to time appoint a secretary.

IV. The secretary may, if desired, be one of the members of the Board.

V. The duties of the secretary will include :

(*a*) Furnishing the Home Office with the addresses of the various members of the Board, and of any changes.

(*b*) Conducting the necessary correspondence with the Home Office, under the direction of the chairman.

(*c*) Summoning the meetings of the Board in accordance with the directions of schedule I. of the Act. Form B.

(*d*) Keeping the minutes of the proceedings of the Board, and of all sub-committees of the Board. Book A.

(*e*) Reporting to the Home Office the proceedings of the Board. Form C.

(*f*) Informing candidates of the date and place of examination. Form E.

(*g*) Attending to the arrangements necessary in connection with the examinations, including—

i. Hire of room.

ii. Printing of necessary examination papers.

iii. Supply of stationery to the candidates.

Form D.

iv. Preparing and transmitting to the Home Office the advertisements giving notice of the examinations, &c.

v. Attending in person at the place of examination.

VI. The secretary will be allowed a gratuity of £15 per annum for his services, and 30*s.* to cover all his travelling and personal expenses for each meeting of the Board, or each day of examination separately attended by him personally, provided the total amount claimed for expenses does not exceed £15 per annum. If he be a member of the Board, this sum of 30*s.* will include the sum of 30*s.* (see rule I.) allowed to him for his expenses as such member. The gratuity will be payable half-yearly, on the 1st of January and the 1st of July.

VII. No expense of the hire for a room for the meeting of the Board will be allowed unless the previous sanction of the Secretary of State be obtained.

VIII. No furniture for the use of the Board must be obtained without the previous sanction of the Secretary of State.

IX. All books, stationery, and printing must be procured from Her Majesty's Stationery Office; the requisitions for such, however, must, in the first instance, be addressed to the Under-Secretary of State, Home Office. This regulation includes the supplies of stationery, &c., for the candidates at the examination, and the printing of the necessary examination papers, the demands for which must be sent in at least fifteen days prior to the examination.

X. All correspondence must be forwarded under cover to the Secretary of State, for the purpose of having the postage franked, but, in cases of exceptional urgency, letters may be transmitted through the post in the ordinary way. A detailed account of the postage thus incurred by the secretary must be kept in a book to be provided for that purpose, and he will be from time to time recouped the amount expended. Letters addressed to the Home Office need not be prepaid.

Book B. Form K.

XI. In case of any exceptional expenditure, it must be understood that no claim for the repayment of the same will be admitted unless the previous sanction of the Secretary of State has been obtained.

XII. The Board will from time to time report to the Secretary of State any vacancies which may occur in their number.

XIII. The number of examiners to be appointed by the Board must not exceed three; they will act for the entire district.

XIV. The examiners may be members of the Board, if the consent of the Secretary of State has been first obtained, but not otherwise.

XV. The remuneration to each examiner for each examination will be £10, with a further allowance of £5 for expenses. No further allowance can be made should an examiner, not being a member of the Board, be required to attend a Board meeting.*

XVI. When a Board meeting and an examination are held on the same day, an examiner who is also a member of the Board will not be allowed, as a member of the Board, to make any charge under rule I. for attending such Board meeting.

XVII. The examinations will be, except as hereinafter provided, held annually, at such time and place as the Secretary of State may appoint, upon its being notified to him that a number of not less than five candidates are desirous of presenting themselves to be examined. Provided that, if special circumstances should arise in any district which, in the opinion of the Board, render the holding of a second examination in the year desirable, the Secretary of State, on receiving their report through the secretary, reserves to himself the power of ordering, if he should see fit, such additional examination to be held at such time and place as he may appoint.

XVIII. The secretary will, before such examination is held, report to the Secretary of State what arrangement the Board proposes to make relative to the hire of the room or rooms in which to hold the examination. No expense for the hire of any room or rooms for that purpose will be allowed unless the previous sanction of the Secretary of State has been obtained for it. Form F.

XIX. Before the examination papers are delivered to the candidates, the secretary to the Board will collect from each candidate (1) the Home Office authorization for appearing before the Board of Examination, and (2) such documents as may be prescribed by the Board as evidence of the candidate's sobriety, experience, ability, and general good conduct, and no candidate

* See Home Office circular, dated 22nd February 1888, which follows.

may be permitted to proceed to be examined who fails to produce the authority and documents aforesaid.

XX. The examination will be continued from day to day until completed. A candidate who fails to satisfy the examiners at any examination will have to pay for a fresh authorization before he can be examined a second time.

XXI. If, from any cause, any person desirous of being examined fails to satisfy the Board that he is eligible for examination, the secretary must return to the candidate his unused authorization.

Forms G & H. XXII. The examiners will report (in duplicate) to the Secretary of State, through the secretary, the result of the examination, in the form prescribed. They will, with this report, transmit the authorization for the examination of each candidate, first having cancelled the authorization by writing the date of the examination across it.

Form I. XXIII. The remuneration and allowance will be paid to the examiners at the conclusion of each examination, upon receipt of their claims, and of the report (see rule XXII.).

Form K. XXIV. At the conclusion of the examination the secretary will transmit to the Home Office a claim from the proprietor of the room for the amount due, which will be paid to the proprietor by the Home Office.

XXV. The secretary will be required to produce vouchers for all expenses paid by him, *e.g.*, the carriage of parcels, gratuities paid to the attendant at the examinations, &c. &c.

XXVI. All communications addressed to the Secretary of State must be written on paper of foolscap size, and, if referring to previous correspondence, the Home Office register number must be quoted.

HOME OFFICE, WHITEHALL,
1*st of January* 1888.

REMUNERATION OF EXAMINERS.

WHITEHALL, S.W., *February* 22, 1888.

SIR,

I am directed by the Secretary of State to acquaint you, for the information of the Board for Examinations for the mining district of West Lancashire and North Wales, that, in consideration of the increase in the number of candidates to be examined both for first-class and second-class certificates of competency under the Coal Mines Regulation Act, 1887, the Secretary of State has thought fit to recommend to the Lords Commissioners of Her Majesty's Treasury, and their Lordships have been pleased to sanction, that the remuneration of examiners employed in conducting such examinations shall be, as heretofore, a fee of £10 if the number of candidates is below forty, but with an additional fee of £5 if the number exceeds forty, or of £10 if the number exceeds eighty, besides the usual allowance for travelling and personal expenses of £5.

I am to add that the additional fees will only be granted when the annual examinations for both classes of certificates are held simultaneously.

I am, Sir,
Your obedient Servant,
GODFREY LUSHINGTON.

The Secretary to the Board for Examinations for the
Mining District of West Lancashire and North Wales.

No. 12.—LIST of the NAMES, ADDRESSES, DATES of APPOINTMENT, of Her Majesty's INSPECTORS OF MINES, under the COAL MINES REGULATION ACT, 1872, with the STRATIFIED IRONSTONE MINES (GUNPOWDER) ACT, 1881, and under the METALLIFEROUS MINES REGULATION ACTS, 1872 and 1875, with the SLATE MINES (GUNPOWDER) ACT, 1882; and also of the CLERKS of MINERAL STATISTICS; and the NAMES and ADDRESSES of the SECRETARIES of the BOARDS for EXAMINATIONS, and the Months in which the EXAMINATIONS for CERTIFICATES OF COMPETENCY are usually held.

Names, Addresses, and Dates of Appointments of Chief Inspectors, according to Seniority of Appointment.	Names, Addresses, and Dates of Appointments of Inspectors Assisting.	Districts assigned under Coal Mines Act, Names and Addresses of Secretaries to Boards for Examinations, and Months in which the Examinations are held.	Districts assigned under Metalliferous Mines Acts.
Joseph Dickinson, Esq., South Bank, Pendleton, Manchester. November 22, 1850.	W. Saint, Esq., 24 George Street, Cheetham Hill, Manchester. June 4, 1887.	MANCHESTER DISTRICT, comprising North and East Lancashire and IRELAND. Maskell W. Peace, Esq., 18 King Street, Wigan. (*December.*)	Cheshire, Kent, Middlesex, Surrey, Sussex, North and East Lancashire, except the detached part of North Lancashire; also Ireland.
Thomas Wynne, Esq., Gnosall, Stafford. January 2, 1852.	A. R. Sawyer, Esq., Newcastle-under-Lyme. March 7, 1879.	NORTH STAFFORDSHIRE DISTRICT, comprising North Staffordshire, Cheshire, and Shropshire. Joseph Knight, Esq., Newcastle-under-Lyme, Staffordshire. (*June.*)	North Staffordshire.
Arthur H. Stokes, Esq., Greenhill, Derby. 1874.	W. H. Hepplewhite, Esq., Alexandra Road, Leicester. April 27, 1885. T. A. Southern, Esq., 37 Rose Hill Street, Derby. April 2, 1887.	MIDLAND DISTRICT, comprising counties of Derby, Leicester, Nottingham, and Warwick. Wm. Saunders, Esq., Wilson Street, Derby. (*October.*)	Berkshire, Buckinghamshire, Cambridge, Derby, Hertfordshire, Huntingdonshire, Leicester, Northampton, Nottingham, Oxford, Rutland, and Warwickshire.

Ralph Moore, Esq., 13 Clairmont Gardens, Glasgow. April 26, 1862.	Rob. McLaren, Esq., Uddingstone, Glasgow. March 31, 1885. H. Johnstone, Esq., Portland Park, Hamilton, N.B. March 15, 1887.	SCOTLAND—EAST DISTRICT, comprising counties of Clackmannan, Edinburgh, Fife, Haddington, Kinross, Linlithgow, Perth, Sutherland, upper and middle wards of Lanark, and part of Stirling. Robert Calder, Esq., 3 Trinity Place, Broughty Ferry, N.B. (*May.*)	Clackmannan, Edinburgh, Fife, Haddington, Inverness, Kinross, portions of Lanark, Linlithgow, Perth, Shetland, part of Stirling, and Sutherland.
Frank N. Wardell, Esq., Wath-on-Dearne, Rotherham. November 21, 1867.	John Gerrard, Esq., Park View, Westgate, Wakefield. January 13, 1874. Jas. Mellors, Esq., Louis Street, Leeds. May 19, 1885.	YORKSHIRE AND LINCOLNSHIRE DISTRICT, comprising Yorkshire, exclusive of North Riding, and Lincolnshire. John R. Jeffery, Esq., Solicitor, 5 Piccadilly, Bradford. (*June.*)	Yorkshire, exclusive of North Riding.
James Willis, Esq., Newcastle-on-Tyne. January 10, 1871.	J. B. Atkinson, Esq., Stocksfield, Newcastle-on-Tyne. March 20, 1873. R. P. W. Oswald, Esq., Bans View House, Brigham, Carlisle. March 31, 1885.	NEWCASTLE DISTRICT, comprising counties of Cumberland, Northumberland, and part of Durham. Fred Gosman, Esq., Coal Trade Office, Newcastle-on-Tyne. (*January.*)	Cumberland, Northumberland, and the detached part of North Lancashire.
C. Le Neve Foster, Esq., Llandudno. April 5, 1873.	. . . . .	. . . . .	NORTH WALES, &C. AND THE ISLE OF MAN. Anglesey, Brecon, Cardigan, Carnarvon, Denbigh, Flint, Merioneth, Montgomery, Radnor, Shropshire, and the Isle of Man.

Names, Addresses, and Dates of Appointments of Chief Inspectors, according to Seniority of Appointment.	Names, Addresses, and Dates of Appointments of Inspectors Assisting.	Districts assigned under Coal Mines Act, Names and Addresses of Secretaries to Boards for Examinations, and Months in which the Examinations are held.	Districts assigned under Metalliferous Mines Acts.
Thomas Bell, Esq., Durham. February 27, 1873. In charge, August 18, 1873.	W. N. Atkinson, Esq., Shincliffe Hall, Durham. March 31, 1873. J. Plummer, Esq., 25 Weldron Street, Bishop Auckland. August 3, 1885.	DURHAM DISTRICT, comprising county of Westmoreland, part of Durham, and North Riding of Yorkshire. G. W. Bartlett, Esq., Tees Grange, Darlington. (*July.*)	Durham, Westmoreland, and North Riding of Yorkshire.
Henry Hall, Esq., Rainhill, Prescot. April 4, 1873. In charge Dec. 2, 1874.	J. L. Hedley, Esq., The Gables, Flookers Brook, Chester. January 13, 1874.	LIVERPOOL DISTRICT, comprising counties of Anglesey, Denbigh, Flint, and West Lancashire. Maskell W. Peace, Esq., 18 King Street, Wigan. (*June.*)	West Lancashire.
Arch. E. Pinching, Esq., 6 Osborne Villas, Stoke, Devonport. April 27, 1887.	. . . . .	. . . . .	CORNWALL, DEVON, &c. Cornwall, Devonshire, Dorsetshire, and part of Somersetshire, Hampshire, and the Isle of Wight.
W. B. Scott, Esq., Parkdale, Wolverhampton. 1873. In charge, 1883.	W. H. Pickering, Esq., Compton Road, Wolverhampton. April 2, 1883.	SOUTH STAFFORDSHIRE DISTRICT, comprising South Staffordshire and Worcestershire. W. Blakemore, Esq., Shelfield (near Walsall). (*January.*)	South Staffordshire, Worcestershire, Bedfordshire, Essex, Norfolk, and Suffolk.

J. M. Ronaldson, Esq., 44 Athole Gardens, Glasgow. 1875.	G. F. Bell, Esq., 5 West Garden Street, Glasgow. March 19, 1886.	SCOTLAND—WEST DISTRICT, comprising counties of Argyle, Ayr, Dumfries, Dumbarton, Renfrew, and portions of Lanark and Stirling. Stuart Foulis, Esq., 135 St. Vincent Street, Glasgow. (*November.*)	Argyle, Ayr, Dumfries, Dumbarton, Kirkcudbright, Renfrew, Wigtown, and portions of Lanark and Stirling.
Joseph S. Martin, Esq., Durdham Park, Redland (near Bristol). February 1887.	R. Donald Bain, Esq., 85 Pembroke Road, Clifton, Bristol. August 22, 1877.	SOUTH-WESTERN DISTRICT, comprising the counties of Devon, Dorset, Gloucester, Monmouth, Somerset, and portions of Brecon and Glamorgan. J. S. Thomas, Esq., Forest House, Coleford, Gloucester. (*July.*)	Eastern part of Glamorganshire, Gloucester, Hereford, Monmouth, part of Somersetshire, and Wiltshire.
Joseph T. Robson, Esq., Jesmond House, Swansea. 1873.	E. W. Randall, Esq., Penarth (near Cardiff). February 13, 1883. F. A. Gray, Esq., Neath. October 27, 1886.	SOUTH WALES DISTRICT, comprising counties of Carmarthen, Pembroke, and portions of Brecon and Glamorgan. C. H. James, Esq., 8 Courtland Terrace, Merthyr Tydfil. (*January.*)	Carmarthenshire, part of Glamorganshire, and Pembrokeshire.

CLERKS OF MINERAL STATISTICS.

Richard Meade, Esq., 1841 . . . Home Office, Whitehall, London.
James B. Jordan, Esq., 1858 . . . Home Office, Whitehall, London.

EDUCATIONAL PROVISIONS AS TO ENGLAND.

Elementary Education Act, 1876 (39 & 40 Vict. c. 79).

Regulation as to employment of child under ten, and certificate of education of previous school attendance being condition of employment of child over ten.

5. A person shall not, after the commencement of this Act (1 January 1887), take into his employment (except as hereinafter in this Act mentioned) any child—

(1.) Who is under the age of ten years; or

(2.) Who, being of the age of ten years or upwards, has not obtained such certificate either of his proficiency in reading, writing, and elementary arithmetic, or of previous due attendance at a certified efficient school, as is in this Act in that behalf mentioned, unless such child, being of the age of ten years or upwards, is employed and is attending school in accordance with the provisions of the Factory Acts, or of any bye-law of the local authority (hereinafter mentioned) made under section 74 of the Elementary Education Act, 1870, as amended by the Elementary Education Act, 1873, and this Act, and sanctioned by the Education Department.

Penalty for employing a child in contravention of Act.

6. Every person who takes a child into his employment in contravention of this Act shall be liable, on summary conviction, to a penalty not exceeding forty shillings.

Enforcement of Act by School Board or school attendance committee of existing local authority or by inspectors of factories or mines.

7. The provisions of this Act respecting the employment of children shall be enforced—

(1.) In a school district within the jurisdiction of a School Board, by that Board; and

(2.) In every other school district by a committee (in this Act referred to as a school attendance committee) appointed annually, if it is a borough, by the council of the borough, and, if it is a parish, by the guardians of the union comprising such parish.

A school attendance committee under this section may consist of not less than six nor more than twelve members of the council or guardians appointing the committee, so, however, that, in the case of a committee appointed by guardians, one-third at least shall consist of ex-officio guardians, if there are any and sufficient ex-officio guardians.

Every such School Board and school attendance committee (in this Act referred to as the local authority) shall, as soon as may be, publish the provisions of this Act within their jurisdiction in such manner as they think best calculated for making those provisions known.

Provided that it shall be the duty of the inspectors and sub-inspectors acting under the Acts regulating factories, workshops, and *mines* respectively, and not of the local authority, to enforce the observance by the employers of children in such factories, workshops, and *mines* of the provisions of this Act respecting the employment of children; but it shall be the duty of the local authority to assist the said inspectors and sub-inspectors in the performance of their duty by information and otherwise.

It shall be the duty of such local authority to report to the Education

Department any infraction of the provisions of section 7 of the Elementary Education Act, 1870, in any public elementary school within their district which may come to their knowledge, and also to forward to the Education Department any complaint which they may receive of the infraction of those provisions.

Exception to prohibition of employment of children.

9. A person shall not be deemed to have taken any child into his employment contrary to the provisions of this Act, if it is proved to the satisfaction of the Court having cognizance of the case either:—

(1.) That during the employment there is not within two miles, measured according to the nearest road, from the residence of such child any public elementary school open which the child can attend; or

(2.) That such employment, by reason of being during the school holidays, or during the hours during which the school is not open, or otherwise, does not interfere with the efficient elementary instruction of such child, and that the child obtains such instruction by regular attendance for full time at a certified efficient school or in some other equally efficient manner.

Supplemental provisions as to certificates of proficiency and previous attendance at school.

24. The certificates of proficiency of a child in reading, writing, and elementary arithmetic, and of the previous due attendance of a child at a certified efficient school for the purposes of this Act, shall be certificates of proficiency and previous due attendance ascertained according to the standards set forth in the first schedule to this Act, and such certificate shall be granted to the child entitled to the same, free of cost or charge to such child, or to the parent of such child.

The Education Department may from time to time by order make, and when made revoke and vary, regulations with respect to certificates of age for the purposes of this Act and the persons by whom and the form in which certificates of the said proficiency and due attendance are to be granted, and with respect to other matters relating thereto, and with respect to the preservation of registers and other records of such proficiency and attendance, and such regulations shall be observed by the local authority and the managers of certified efficient schools.

All regulations made by the Education Department under this section shall be laid before Parliament in the same manner as minutes of the Education Department relating to the annual parliamentary grant.

Certificates of birth for purposes of Act.

25. Where the age of any child is required to be ascertained or proved for the purposes of this Act, or for any purpose connected with the elementary education or employment in labour of such child, any person on presenting a written requisition in such form and containing such particulars as may be from time to time prescribed by the Local Government Board, and on payment of such fee, not exceeding one shilling, as the Local Government Board from time to time fix, shall be entitled to obtain a certified copy under the hand of the registrar or superintendent registrar of the entry in the register under the Births and Deaths Registration Acts, 1836 to 1874, of the birth of the child named in the requisition.

Definition of employment in case of parent.

47. A parent of a child who employs such child in any labour exercised by way of trade or for the purposes of gain shall be deemed for the purposes of this Act to take such child into his employment.

General definitions.

48. A child in this Act means a child between the ages of five and fourteen years.

Terms in this Act shall, so far as is consistent with the tenor thereof, have the same meaning as in the Elementary Education Acts, 1870 and 1873.

The term "certified efficient school" in this Act means a public elementary school, and any workhouse school certified to be efficient by the Local Government Board, and any public or State-aided elementary school in Scotland, and any national school in Ireland, and also any elementary school which is not conducted for private profit, and is open at all reasonable times to the inspection of Her Majesty's inspectors, and requires the like attendance from its scholars as is required in a public elementary school, and keeps such registers of those attendances as may be for the time being required by the Education Department, and is certified by the Education Department to be an efficient school.

Construction of this Act with other enactments.

50. Where any act, neglect, or default is punishable under this Act and also under any other enactment, or any bye-law made by a School Board or other local authority for the time being in force, proceedings may be instituted in respect of such act, neglect, or default under this Act or such other enactment or bye-law, in the discretion of the authority or person instituting the proceedings, so that proceedings under one enactment or bye-law only be instituted in respect of the same act, neglect, or default; and any bye-law made either before or after the commencement of this Act, by any School Board or other local authority under section 74 of the Elementary Education Act, 1870, if otherwise valid, shall not be rendered invalid by reason that it is more stringent than the provisions of this Act; and nothing in this Act shall prejudice the effect of or derogate from any provisions relating to the committal of children to industrial schools or the employment of children contained in any previous Act of Parliament which may be more stringent in its provisions than this Act.

FIRST SCHEDULE.

Standards of Proficiency in Reading, Writing, and Elementary Arithmetic and previous due Attendance at School.

For the purpose of Employment.

(1.) The standard of proficiency in reading, writing, and elementary arithmetic for the purpose of a certificate under this Act enabling a child to be employed shall be—

(*a.*) The standard of reading, writing, and elementary arithmetic fixed by standard four of the Code of 1876, or any higher standard.

(2.) The standard of previous due attendance at a certified efficient school for the purpose of a certificate under this Act enabling a child to be employed shall be 250 attendances after five years of age in not more than two schools during each year for five years, whether consecutive or not.

(11.) Attendance for the purpose of this schedule means an attendance as defined by the Code of 1876, and where the attendance is at a certified day industrial school includes such attendance as may be from time to time directed for the purpose by a Secretary of State, and where the attendance is at a workhouse school includes such attendance as may be from time to time directed for the purpose by the Local Government Board.

(12.) The Code of 1876 in this schedule means the Code of the minutes of the Education Department made in the year 1876 with respect to the parliamentary grant to public elementary schools in England, and in the case of a school in Scotland, means the Code of the minutes of the Scotch Education Department made in the year 1876 with respect to the parliamentary grant to elementary schools. Scotland.

ELEMENTARY EDUCATION ACT, 1880 (43 & 44 VICT. c. 23).

2. It shall be the duty of the local authority (within the meaning of the Elementary Education Act, 1876) of every school district in which bye-laws respecting the attendance of children at school under section 74 of the Elementary Education Act, 1870, are not at the passing of this Act in force, forthwith to make bye-laws under that section for such district. Obligation to make bye-laws as to the attendance of children at school.

If at any time after the 31st day of December 1880 it appears to the Education Department that in any school district there are no bye-laws under that section in force, the Education Department may either proceed under section 27 of the Elementary Education Act, 1876 (which relates to a local authority who fail to fulfil their duty under that Act), or may make bye-laws respecting the attendance of children at school in that district, and the bye-laws so made shall have effect and be enforced and be subject to revocation and alteration as if they had been made by the local authority for that district and sanctioned by the Education Department in pursuance of section 74 of the Elementary Education Act, 1870: Provided that where in a school district in which bye-laws are not in force a bye-law is made in pursuance of this section, that bye-law shall not prevent a child who, at the date of the bye-law taking effect, is employed in accordance with the Elementary Education Act, 1876, from continuing to be so employed. 39 & 40 Vict. c. 79. 33 & 34 Vict. c. 75. 33 & 34 Vict. c. 75. 39 & 40 Vict. c. 79.

4. Every person who takes into his employment a child of the age of ten and under the age of thirteen years resident in a school district, before that child has obtained a certificate of having reached the standard of education fixed by a bye-law in force in the district for the total or partial exemption of children of the like age from the obligation to attend school, shall be deemed to take such child into his employment in contravention of the Elementary Education Act, 1876, and shall be liable to a penalty accordingly. Enforcing of bye-laws.

NOTE.

The Elementary Education Act of 1876 treats a young person as a "child" up to fourteen years of age (section 48, already set out), and it may be taken that between ten and fourteen a boy or girl cannot be employed in a mine either above or below

ground without a certificate of proficiency, or a certificate of school attendance, or unless such boy or girl is at the time attending school.

It will be necessary for employers to ascertain what bye-laws are in force in their district, and whether they apply to children of all ages between ten and thirteen. Where such bye-laws require attendance at school, such attendance is made obligatory by the Elementary Education Act, 1880, superseding section 5 (2) of the Act of 1876. Where bye-laws have not been made, a child under thirteen must not be employed unless and until the employer has obtained a certificate either of proficiency in reading, writing, and elementary arithmetic, or of previous due attendance at school, or such child is attending school, as provided for in section 5 (2) of the Act of 1876, already set out.

It is the duty of the inspector of mines to see that the provisions referred to are complied with.

The foregoing obligation on an employer is subject to the exception contained in section 9 of the Act of 1876, already set out.

By section 76 of the Coal Mines Regulation Act, 1887, it is enacted that nothing in that Act is to affect any provision in the Education (Scotland) Acts, 1872 to 1883.

EXAMINATIONS.

Letter from Home Office.

Whitehall, 29*th February* 1888.

Sir,

Referring to your letter of the 24th instant, in which you ask whether a candidate for examination for a first-class certificate of competency under the Coal Mines Regulation Act, 1887 is, in the event of failure, prohibited absolutely from obtaining a second-class certificate, I am directed by the Secretary of State to acquaint you that there is no intention to prevent a candidate for a first-class or manager's certificate of competency, having failed in the examination for such certificate, from offering himself at any time afterwards for examination for a second-class or under-manager's certificate of competency. It was only meant that his qualification for the under-manager's certificate should not be established on the results of his examination for a manager's certificate, but should be ascertained by a distinct and separate examination expressly settled to test qualification for the second class.

I am, Sir,
Your obedient Servant,
Godfrey Lushington.

The Secretary to the Board for Examination for the
Mining District of West Lancashire and North Wales.

WEIGHTS AND MEASURES ACT, 1878

(41 *AND* 42 *VICT. CAP.* 49).

SECTION 48.

Power to inspect measures, weights, scales, &c., and to enter shops, &c., for that purpose.

Every inspector under this Act authorized in writing under the hand of a justice of the peace, also every justice of the peace, may at all reasonable times inspect all weights, measures, scales, balances, steelyards, and weighing machines within his jurisdiction which are used or in the possession of any person or on any premises for use for trade, and may compare every such weight and measure with some local standard, and may seize and detain any weight, measure, scale, balance, or steelyard, which is liable to be forfeited in pursuance of this Act, and may for the purpose of such inspection enter any place, whether a building or in the open air, whether open or inclosed, where he has reasonable cause to believe that there is any weight, measure, scale, balance, steelyard, or weighing machine which he is authorized by this Act to inspect.

Any person who neglects or refuses to produce for such inspection all weights, measures, scales, balances, steelyards, and weighing machines in his possession or on his premises, or refuses to permit the justice or inspector to examine the same or any of them, or obstructs the entry of the justice or inspector under this section, or otherwise obstructs or hinders a justice or inspector acting under this section, shall be liable to a fine not exceeding five, or, in the case of a second offence, ten pounds.

[*UNOFFICIAL FORMS, prepared to comply with the provisions of the Act.*]

COAL MINES REGULATION ACT, 1887.

50 & 51 Vict. c. 58, s. 8.

NOTICE AS TO PERSON TO WHOM IMMEDIATE EMPLOYER OF ANY BOY MUST REPORT HIS INTENTION TO EMPLOY THE BOY IN THE MINE.

_____ *Mine.* _____ *Manager.*

The Manager of this Mine Hereby Gives Notice that he has appointed, and does hereby, under section 8 of this Act, appoint

[1] _____

as the person to whom the employer of every boy (other than the owner, agent, or manager) shall report before he causes the boy to be below ground in this Mine, that he is about to employ the boy in the Mine.

[1] Insert name of official or person

(Signed)

_____ MANAGER.

THE COAL MINES REGULATION ACT, 1887.

50 & 51 Vict. c. 58, s. 19.

Notice of Division of Mine into Parts.

Name of Mine _____

Situation of Mine _____

County _____

Name of Owner (Company) _____

Name of Manager _____

Name of Under-Manager _____

Postal Address _____

I, [1] _____

being the [2] _____

of the above-named Mine, do hereby, in pursuance of the provision contained in Section 19 of the Coal Mines Regulation Act, 1887, give you Notice that the above-named Mine is worked separately in [3] _____

_____

_____

Dated this _____ day of _____ 18

(Signed) _____

[4] _____ Esq.,
H.M. Inspector of Mines.

[5] _____

[1] Insert name of Owner, Agent, or Manager.

[2] Insert Owner, Agent, or Manager.

[3] Insert "two" or more parts, as the case may be, indicating the separate parts into which the Mine is divided.

[4] Insert name of Inspector

[5] Address.

THE COAL MINES REGULATION ACT, 1887.

50 & 51 Vict. c. 58, s. 35.

FORM OF NOTICE OF EXPLOSION OR ACCIDENT TO BE SENT TO THE INSPECTOR OF THE DISTRICT.

Name of Mine _____

Date _____

To _____ Esq.,
H.M. Inspector of Mines.

Address _____

SIR,

MINES (COAL) REGULATION ACT, 1887.

In pursuance of the above Act, I beg to give you notice that an [1] _____ has occurred at this Mine, of which the following are the particulars:—

[1] "Explosion" or "accident."

Place where the accident occurred . . .

Whether above or below ground . . .

Date of the accident .

Character of the accident . . .

If from explosion, whether of gas, or of any explosive or "any "steam boiler" .

Number of persons killed . . .

Number of persons injured seriously . .

Number of persons injured slightly [2] . .

[2] In case of an explosion.

I am, Sir,

Your obedient Servant,

(Signature) _____

NOTE.—This notice must be sent to the inspector within 24 hours of the explosion or accident. It need not be given in the case of an accident not resulting from an explosion of gas, or of any explosive, or of any steam boiler, unless the injury is serious. Notice of resulting death should be given upon a separate form (see next form).

THE COAL MINES REGULATION ACT, 1887.
50 & 51 Vict. c. 58, s. 35.

FORM OF NOTICE TO BE SENT TO THE INSPECTOR OF THE DISTRICT WHERE DEATH HAS RESULTED FROM ANY PERSONAL INJURY BY REASON OF ANY EXPLOSION OF GAS, OR OF ANY EXPLOSIVE, OR OF ANY STEAM BOILER, OR BY REASON OF ANY ACCIDENT WHATEVER IN OR ABOUT ANY MINE, WHETHER ABOVE OR BELOW GROUND.

Name of Mine_____

Date_____

To_____ Esq.,
H.M. Inspector of Mines.
Address_____

SIR,

MINES (COAL) REGULATION ACT, 1887.

In pursuance of the above Act, I beg to give you notice that death has resulted to [1]_____ from an [2]_____ which occurred at this Mine, of which the following are the particulars :—

Place where the explosion or accident occurred .	
Whether above or below ground . . .	
Date of the explosion or accident . . .	
Character of the explosion or accident . . .	
If from explosion, whether of gas, or of any explosive or "any steam "boiler" . . .	
Number of persons killed	
Number of persons injured seriously . . .	
Number of persons injured slightly [3] . . .	

[1] Here insert name or names.

[2] "Explosion" or "accident."

[3] In case of an explosion.

I am, Sir,
Your obedient Servant,
(Signature)_____

NOTE.—This notice must be sent to the inspector, where death results to the person injured, within 24 hours after such death comes to the knowledge of the owner, agent, or manager.

COAL MINES REGULATION ACT, 1887.

50 & 51 Vict. c. 58, s. 36.

NOTICE TO THE INSPECTOR OF THE DISTRICT OF OPENING, ABANDONMENT, DISCONTINUANCE, OR RE-COMMENCEMENT OF WORKING; OR OF CHANGE IN NAME OF MINE OR OF OWNER, &c.

Name of Mine _____

Date _____

To _____ Esq.,
H.M. Inspector of Mines.
Address _____

SIR,

COAL MINES REGULATION ACT, 1887.

In pursuance of the above Act, I beg leave to give you Notice that [1] _____

_____

_____

_____

_____

Signature of Owner, Agent, or Manager } _____

[1] Here give particulars, as the case may require, under any of the cases named at foot.

(1) Where any working is commenced for the purpose of opening a new shaft for or a seam of any mine;

(2) Where a shaft or seam of any mine is abandoned, or the working thereof discontinued;

(3) Where the working of a shaft or a seam of any mine is re-commenced after any abandonment or discontinuance for a period exceeding two months; or,

(4) Where any change occurs in the name of any mine, or in the name of the owner, agent, or manager, or in the principal officers of any incorporated company which is the owner of a mine.

NOTE.—This notice must be given within two months after the commencement, abandonment, discontinuance, re-commencement, or change.

THE COAL MINES REGULATION ACT, 1887.

50 & 51 Vict. c. 58, s. 49.

Measurement of Quantity of Air under General Rule 1.

RECORD BOOK.

Copy of Rule.

Rule 1.—An adequate amount of ventilation shall be constantly produced in every mine to dilute and render harmless noxious gases to such an extent that the working places of the shafts, levels, stables, and workings of the mine, and the travelling roads to and from those working places shall be in a fit state for working and passing therein.

In the case of mines required by this Act to be under the control of a certificated manager, the quantity of air in the respective splits or currents shall at least once in every month be measured and entered in a book to be kept for the purpose at the mine.

Name of the Mine_____ Manager_____

Name of Seam.	Mode of Ventilation, with Description.	Diameter and Depth of Downcast and Upcast Shafts.				Number of Splits and Quantity.		Airways.		Average Total Quantity of Fresh Air per Minute.	Date of Measurement.	Name of Person taking the Measurement.
		Downcast.		Upcast.				Length of Splits.	Sectional Area.			
		Diameter in feet.	Depth in feet.	Diameter in feet.	Depth in feet.	Splits.	Quantity in cubic feet per minute.	Yards.	Square feet.	Cubic feet.		

Signature of person making this entry_____

NOTE.—This book, or a correct copy thereof, must be kept at the office at the mine, and any inspector and any person employed in the mine, or any one having the written authority of any inspector or person so employed, may at all reasonable times inspect and take copies of and extracts therefrom. It need not be kept for more than 12 months after it has ceased to be used for entries therein under the Act (Rule 37).

THE COAL MINES REGULATION ACT, 1887.

50 & 51 Vict. c. 58, s. 49.

INSPECTION BEFORE COMMENCING WORK OF CONDITION OF MINE AS TO VENTILATION, ROOF, AND SIDES, AND GENERAL SAFETY. (GENERAL RULE 4, ss. i.)

REPORT BOOK.

Copy of Rule.

Rule 4.—A station or stations shall be appointed at the entrance to the mine, or to different parts of the mine, as the case may require; and the following provisions shall have effect:—

(i.) As to inspection before commencing work:—

A competent person or competent persons appointed by the owner, agent, or manager for the purpose not being contractors for getting minerals in the mine shall, within such time immediately before the commencement of each shift as shall be fixed by special rules made under this Act, inspect every part of the mine situate beyond the station or each of the stations, and in which workmen are to work or pass during that shift, and shall ascertain the condition thereof so far as the presence of gas, ventilation, roof and sides, and general safety are concerned.

No workman shall pass beyond any such station until the part of the mine beyond that station has been so examined and stated by such competent person to be safe.

The inspection shall be made with a locked safety lamp, except in the case of any mine in which inflammable gas has not been found within the preceding twelve months.

A report specifying where noxious or inflammable gas, if any, was found present, and what defects (if any) in roofs or sides, and what (if any) other source of danger were or was observed, shall be recorded without delay in a book to be kept at the mine for the purpose, and accessible to the workmen, and such report shall be signed by, and so far as the same does not consist of printed matter shall be in the handwriting of the person who made the inspection.

For the purpose of the foregoing provisions of this rule, two or more shifts succeeding one another without any interval are to be deemed to be one shift

Name of Mine. and other Particulars (if any).	District or Part of Mine inspected beyond the Appointed Station or Stations.	Name of Competent Person appointed by the Owner, Agent, or Manager of the Mine to make the inspection under Sub-section (i.) of the said Rule, of the above Mine or District, or Part of the Mine beyond the appointed Station or Stations.

[1] _____ is hereby appointed to carry out the foregoing rule at the above mine or part.

[1] Insert name of competent person.

Signature of Owner, Agent, or Manager } _____

Date _____

REPORT.

I report that on the [2] day of 18 and within [3] hours before the commencement of the shift, being the time fixed by special rule No. [4] , I inspected [5] every part of the mine situate beyond the station, or each of the stations, in which workmen were to work or pass during the shift, and that I found the condition thereof, so far as the presence of gas, ventilation, roof and sides, and general safety were concerned, to be as follows :—

[2] Insert date.
[3] Insert time named in special rule.
[4] Insert number of special rule.
[5] If inflammable gas has been found within the preceding twelve months, insert "with a locked safety lamp."

Whether Noxious or Inflammable Gas found, and, if so, where.	Condition of Mine as to Ventilation.	Condition of Roof and Sides.	Condition as to General Safety.	Special Observations (if any).

Signature of competent person appointed by the owner, agent, or manager to make the inspection and report. } _____

NOTE.—This report book, or a copy thereof, must be kept at the office at the mine, and any inspector and any person employed in the mine, or any one having the written authority of any inspector or person so employed, may, at all reasonable times, inspect and take copies of and extracts therefrom.

The report book, or copy, need not be kept for more than twelve months after it has ceased to be used for entries therein under the Act (Rule 37).

THE COAL MINES REGULATION ACT, 1887.

50 & 51 Vict. c. 58, s. 49.

INSPECTION, DURING SHIFTS, OF CONDITION OF MINE AS TO VENTILATION, ROOF AND SIDES, AND GENERAL SAFETY (GENERAL RULE 4, ss. ii.).

REPORT BOOK.

(This Report Book need not necessarily be used except in the case of a mine worked continuously throughout the twenty-four hours by a succession of shifts, in which case the report of one of such inspections is to be recorded.)

Copy of Rule.

(ii.) As to inspection during shifts:—

A similar inspection shall be made in the course of each shift of all parts of the mine in which workmen are to work or pass during that shift, but it shall not be necessary to record a report of the same in a book: Provided that, in the case of a mine worked continuously throughout the twenty-four hours by a succession of shifts, the report of one of such inspections shall be recorded in manner above required.

G. R 4 (ii.).

Name of Mine, and other Particulars (if any).	District or Part of Mine inspected beyond the Appointed Station or Stations.	Name of Competent Person appointed by the Owner, Agent, or Manager of the Mine to make the Inspection under ss. (ii.) of the said Rule of the above Mine or District, or parts of the Mine beyond the appointed Station or Stations.

[1] Insert name of competent person.

[1]_____ is hereby appointed to carry out the foregoing rule at the above mine or part.

Signature of Owner, Agent, or Manager _____

Date_____

Report.

I report that on the [2]_____ day of _____ 18__ and during the [3] _____ shift, I inspected [4] _____ all parts of the mine in which workmen were to work or pass during that shift, and that I found the condition thereof, so far as the presence of gas; ventilation, roof and sides, and general safety were concerned, to be as follows:—

[2] Insert date.
[3] Insert No. of shift.
[4] If inflammable gas has been found within the preceding twelve months, insert "with a locked safety lamp."

Whether Noxious or Inflammable Gas found, and, if so, where.	Condition of Mine as to Ventilation.	Condition of Roof and Sides.	Condition as to General Safety.	Special Observations (if any).

Signature of competent person appointed by the owner, agent, or manager to make the inspection and report } _____

Note.—A similar inspection to that provided for in ss. i. of general rule 4 must be made in the course of *each* shift of all parts of the mine in which workmen are to work or pass during that shift, but it is not necessary to record the same in a book. The report of one of such inspections is only required to be recorded as provided by ss. ii. in the case of a mine worked continuously throughout the twenty-four hours.

Note.—This report book must be kept at the mine, and be accessible to the workmen, and must be signed by, and, so far as the same does not consist of printed matter, must be in the handwriting of the person who made the inspection, and any inspector and any person employed in the mine or any one having the written authority of any inspector or person so employed, may at all reasonable times inspect and take copies of and extracts therefrom.

The report book or copy need not be kept for more than twelve months after it has ceased to be used for entries therein under the Act (Rule 37).

THE COAL MINES REGULATION ACT, 1887.

50 & 51 Vict. c. 58.

Daily Examination of Machinery, &c., Above and Below Ground, under General Rule 5.

REPORT BOOK.

Copy of Rule.

Rule 5. A competent person or competent persons appointed by the owner, agent, or manager for the purpose shall, once at least in every twenty-four hours, examine the state of the external parts of the machinery, the state of the guides and conductors in the shafts, and the state of the head-gear, ropes, chains, and other similar appliances of the mine which are in actual use both above ground and below ground, and shall once at least in every week examine the state of the shafts by which persons ascend or descend; and shall make a true report of the result of such examination, and every such report shall be recorded without delay in a book to be kept at the mine for the purpose, and shall be signed by the person who made the inspection.

Name of Mine.	Part of the Mine (if any).	Name of Competent Person appointed by the Owner, Agent, or Manager to examine once in Twenty-four Hours the External Parts of the Machinery, the State of the Guides and Conductors in the Shafts, and the State of the Head-gear, Ropes, Chains, and other Similar Appliances of the Mine which are in Actual Use both Above Ground and Below Ground, and to report under above Rule.

[1] _____ is hereby appointed to carry out the foregoing rule at the above mine or part.

[1] Insert name of competent person.

Signature of Owner, Agent, or Manager } _____

Date _____

REPORT.

I report that on the [1]_____ day of _____ 18____, I examined the external parts of the machinery, the guides, and conductors in the shafts, and the head-gear, ropes, chains, and other similar appliances of the mine which were in actual use both above ground and below ground, and that the result of such examination was that they were all found to be [2]_____

_____

_____

_____

_____

_____

[1] Insert date.

[2] Insert "safe" or "unsafe," and if unsafe, state the particular machinery which was unsafe, and in what respect.

Signature of competent person appointed by the owner, agent, or manager to make the examination and report _____

THE COAL MINES REGULATION ACT, 1887.

REPORT OF WEEKLY EXAMINATION OF WORKING SHAFTS, UNDER GENERAL RULE 5.

I report that on the [1]_____ day of _____ 18____, I examined the shafts by which persons ascend or descend, and the result of such examination was that they were all found to be [2]

_____

[1] Insert date.

[2] Insert "safe" or "unsafe," and if unsafe, state in what respect.

Signature of competent person appointed by the owner, agent, or manager to make the examination and report _____

THE COAL MINES REGULATION ACT, 1887.

50 & 51 Vict. c. 58, s. 49.

INSPECTION OF MINES. SUDDEN DANGER.—GENERAL RULE No. 7.

REPORT BOOK.

Copy of Rule.

Rule 7. If at any time it is found by the person for the time being in charge of the mine, or any part thereof, that by reason of inflammable gases prevailing in the mine, or that part thereof, or of any cause whatever, the mine or that part is dangerous, every workman shall be withdrawn from the mine or part so found dangerous, and a competent person appointed for the purpose shall inspect the mine or part so found dangerous, and if the danger arises from inflammable gas shall inspect the mine or part with a locked safety lamp; and in every case shall make a true report of the condition of the mine or part; and a workman shall not, except in so far as is necessary for inquiring into the cause of danger or for the removal thereof, or for exploration, be re-admitted into the mine, or part so found dangerous, until the same is stated by the person appointed as aforesaid not to be dangerous. Every such report shall be recorded in a book which shall be kept at the mine for the purpose, and shall be signed by the person who made the inspection.

Name of Mine_____

[1] Insert name of competent person.

[1]_____ is hereby appointed to make the inspection under the foregoing rule at the above mine or part.

Signature of Owner, Agent, or Manager } _____

Date _____

Name of mine . . .

Part of mine . . .

Name of competent person appointed to make the inspection . . .

Date of inspection . .

Whether or not made with a locked safety lamp .

Date when the mine or part of the mine became dangerous . . .

Whether or not by reason of inflammable gases .

True report of the condition of the mine or part of the mine after such examination, and stating if found "not to be dangerous"

Special observations (if any)

Signature of competent person appointed to make the inspection and report ——————————

NOTE.—This report book must be kept at the mine, and be accessible to the workmen, and must be signed by, and, so far as the same does not consist of printed matter, must be in the handwriting of the person who made the inspection, and any inspector and any person employed in the mine, or any one having the written authority of any inspector or person so employed, may, at all reasonable times, inspect and take copies of and extracts therefrom.

The report book, or copy, need not be kept for more than twelve months after it has ceased to be used for entries therein under the Act (Rule 37).

THE COAL MINES REGULATION ACT, 1887.

50 & 51 Vict. c. 58, s. 49.

PERIODICAL INSPECTION ON BEHALF OF WORKMEN.
GENERAL RULE 38.

REPORT BOOK.

Copy of Rule.

Rule 38. The persons employed in a mine may from time to time appoint two of their number or any two persons, not being mining engineers, who are practical working miners, to inspect the mine at their own cost, and the persons so appointed shall be allowed once at least in every month, accompanied, if the owner agent or manager of the mine thinks fit, by himself or one or more officers of the mine, to go to every part of the mine, and to inspect the shafts, levels, planes, working places, return air-ways, ventilating apparatus, old workings, and machinery. Every facility shall be afforded by the owner agent and manager, and all persons in the mine for the purpose of the inspection, and the persons appointed shall forthwith make a true report of the result of the inspection, and that report shall be recorded in a book to be kept at the mine for the purpose, and shall be signed by the persons who made the inspection; and if the report state the existence or apprehended existence of any danger, the owner agent or manager shall forthwith cause a true copy of the report to be sent to the inspector of the district.

Name of mine . . .

Part of mine (if any) . .

Names of two persons (being practical working miners) appointed to inspect the mine on behalf of the workmen . . .

We, the undersigned, being two of the persons employed in the above mine, or [as the case may be] two practical working miners [strike out the superfluous words], report that on the [1]_____ day of _____ 18____ accompanied by [2] _____ we went to every part of the mine described above, and that we inspected the shafts, levels, planes, working places, return airways, ventilating apparatus, old workings, and machinery, and the result of such examination was that [3] _____

Signatures of persons appointed to make the inspection, and to report. _____

N.B.—The owner, agent, or manager may arrange that either of them, by himself or accompanied by one or more officers of the mine, should attend these inspections, and it is advisable that in cases this should be done.

[1] Insert date.

[2] State if accompanied by Owner, Agent, Manager, Undermanager, or other Official. If unaccompanied, strike out the words "accompanied by."

[3] State result fully, and bear in mind that the report is to be a true report of the result of the inspection, and the report should state whether or not there has been found the existence or apprehended existence of any danger.

Note.—If the report state the existence or apprehended existence of any danger, the owner, agent, or manager must forthwith cause a true report to be sent to the inspector of the district.

Note.—This report book, or a correct copy thereof, must be kept at the office at the mine, and any inspector and any person employed in the mine, or any one having the written authority of any inspector or person so employed, may, at all reasonable times, inspect and take copies of and extracts therefrom.

The report book, or copy, need not be kept for more than twelve months after it has ceased to be used for entries therein under the Act (Rule 37).

INSTRUCTIONS TO CANDIDATES

For First and Second Class Certificates issued by the various Examination Boards, under the Coal Mines Regulation Act, 1887, which have been prepared up to date of going to Press.

BOARD FOR EXAMINATIONS FOR THE EASTERN MINING DISTRICT OF SCOTLAND.

3 FINTRY PLACE, BROUGHTY FERRY, N.B.,
, 1888.

SIR,

I am directed by the chairman of the Board for Examinations for this district to inform you that the Secretary of State has been pleased to order the next examination of candidates for certificates of competency within the district to be held in the town of Edinburgh, on the day of May next, and that such examination will be held accordingly at the *Lecture Hall of the Museum of Science and Art*, on that day, commencing at o'clock in the morning.

It will be necessary for you to present yourself punctually at the hour appointed.

The following gentlemen have been appointed examiners :—

LAURENCE HILL, C.E., Glasgow.
JONATHAN HYSLOP, M.E., Airdrie.
ROBERT CALDER, B.Sc., M.A., Glasgow.

Candidates must be above twenty-two years of age; and (1) Have had five years' experience in any capacity under ground; or (2) Have served three years in a mining engineer's office engaged in under-ground surveying and making of plans, and, in addition, had two years' practical experience about a colliery.

It is impossible to fix beforehand the length of time which the examination may occupy, but it is not probable that your attendance will be required for more than two days.

The subjects fixed for examination are the following:—

	Marks.
1. The Coal Mines Regulation Act, 1887, general knowledge of	20
2. Ventilation, theoretical and practical knowledge of	60
3. Modes of working coal, ironstone, and other minerals, having reference to the nature of the roofs and pavements	60
Candidates, in order to pass, must shew that they have some knowledge of both the long-wall and the stoop-and-room methods of working.	
4. Sinking, fitting, and pumping, with theory of steam engine	40
5. Winding, haulage, and strength of materials	40
6. Under-ground surveying and drawing	40
7. Arithmetic, up to fractions, with calculations of areas and velocities	40
Total	300

A candidate, in order to pass, must be able to write in a fair and legible manner, and obtain at least *one-third* of the marks allotted to each of the subjects 1, 2, and 3; *one-fourth* of the marks allotted to each of the other subjects of examination, and a total of 150 marks for a first-class certificate; or, a quarter of the marks in 1, 2, 3, and a total of 100 marks for a second-class certificate.

It will be necessary for you, before your examination can be proceeded with, to produce to the examiners:—

1. Your authorization from the Secretary of State to appear for examination. (The fee payable for this authorization is £2 and £1, which should be remitted to the Chief Clerk, Home Office, Whitehall, by means of a Post-Office Order, on the General Post Office, London, payable to C. J. Knyvett, Esq., Home Office.)
2. Testimonials from your employer or employers of your sobriety, experience, ability, and general good conduct during the last three years; or a certificate from one of H.M. inspectors of mines that you are a fit and proper person to be examined, such certificate to be accompanied by evidence satisfactory to said inspector of your sobriety and general good conduct. (A copy of your testimonials

should be forwarded to the secretary of the district, along with the originals, which will be returned to you at the examination.)

3. A statement of your age, and your occupation during the last five years, to which a declaration must be appended that all the allegations are true, such declaration being signed by you in the presence of one witness.

I am, Sir,

Your obedient Servant,

R. CALDER, Secretary.

Mr. _____

BOARD FOR EXAMINATION FOR THE MINING DISTRICT OF NORTHUMBERLAND, &c.

January 1888.

SIR,

I am directed by the chairman of the Board for Examinations for this district to inform you that the Secretary of State has been pleased to order the next examination of candidates for the first and second class certificates of competency within the district to be held in the city of Newcastle-upon-Tyne, in the county of Northumberland, on Tuesday and Wednesday, the 28th and 29th days of February next, and that such examination will be held accordingly in the Educational Section of the Public Library Buildings, New Bridge Street, on those days, commencing at ten o'clock in the morning.

It will be necessary for you to present yourself punctually at the appointed hour.

The following gentlemen have been appointed examiners:—

GEORGE BAKER FORSTER,
CUTHBERT BERKLEY,
GEORGE MAY.

It is impossible to fix beforehand the length of time which the examination may occupy, but it is not probable that your attendance will be required for more than two days.

The subjects fixed for examination are the following:—

FOR FIRST-CLASS CERTIFICATES:—

Ordinary Education.—Reading, writing, and arithmetic.

Engineering.—General principles, including pumping, &c.

Practical Mining.—Mode of sinking, working, timbering, bratticing, and ventilation.

The nature and properties of gases.

To know the duties of a manager as described in the Mines Act.

FOR SECOND-CLASS CERTIFICATES:—

The same subjects as above, so far as they are suitable for practical working miners.

It will be necessary for you, before your examination can be proceeded with, to forward to the secretary, at least two days before the examination—

1. Your authorization from the Secretary of State to appear for examination. (The fee payable for this authorization is, for a candidate for a first-class certificate, £2, and for a second-class certificate, £1, which should be remitted to the Under-Secretary of State, Home Office, Whitehall, by means of a Post-Office Order, on the General Post Office, London, payable to C. J. Knyvett, Esq., C.B.)
2. The prescribed evidence as to character, consisting of—
   (*a*) A statement of the situations you have filled during the last five years, to which a declaration must be appended that all the allegations are true, such declaration being signed by you in the presence of one witness, and stating your age.
   (*b*) Testimonials from two responsible persons (whose addresses must be given), to include candidate's present or last employer, as to your sobriety, experience, ability, and general good conduct.
3. Satisfactory evidence that you have had not less than five years' practical experience in a mine.

I am, Sir,

Your obedient Servant,

FRED. GOSMAN, Secretary.

Mr._____

BOARD FOR EXAMINATION FOR THE MINING DISTRICT OF NORTHUMBERLAND, NORTHERN DIVISION OF DURHAM, AND CUMBERLAND.

January 1888.

SIR,

I am directed by the chairman of the Board for Examinations for this district to draw your attention to the following qualifications which must be possessed by candidates for examination in addition to what is set forth in the printed circular sent herewith, viz. :—

Qualifications of Candidates.

Age. The candidate must be twenty-two years of age or upwards.

Experience.

FOR FIRST-CLASS CERTIFICATES :—

Actual practical experience for at least five years as underviewer, assistant viewer, fore overman, or back overman.

FOR SECOND-CLASS CERTIFICATES :—

Practical experience in a mine for at least five years, which shall include, in addition to the foregoing employments, that of deputy overman, master shifter, master wasteman, or practical working miner.

Evidence as to character :

Two testimonials of sobriety and general good conduct are required, viz. :

(*a*) From the present or previous employer representing the two years immediately preceding.

(*b*) From some other respectable person (whose address must be given), representing the three years immediately preceding.

Where the candidate has been a pupil, it is desirable that he should furnish a testimonial from the mining engineer with whom he served his apprenticeship.

Evidence as to experience and ability :

This additional testimonial must be obtained from the last employer or the mining engineer by whom the candidate is employed, stating the positions in which he has been employed and the

duration of such employment, and whether his duties have been efficiently performed.

I am, Sir,
Your obedient Servant,
FRED. GOSMAN, Secretary,
Neville Hall, Newcastle-on-Tyne.

Mr. _____

BOARD FOR EXAMINATIONS FOR THE MINING DISTRICT OF SOUTH DURHAM, WESTMORELAND, AND THE NORTH RIDING OF YORKSHIRE.

DARLINGTON, 188 .

SIR,

I am directed by the chairman of the Board for Examinations for the above district to draw your attention to the following qualifications which must be possessed by candidates for examination for certificates of competency:—

AGE.

The candidate must be twenty-one years of age, or upwards.

EXPERIENCE.

For first-class certificates:—

Actual practical experience for at least five years as under viewer, assistant viewer, fore overman, or back overman.

Two years' or three years' apprenticeship to a mining engineer, with evidence that such period afforded substantially practical experience in a mine, shall be regarded as a substitute for an equivalent period of such employment.

For second-class certificates:—

Practical experience in a mine for at least five years, which shall include, in addition to the foregoing employments, deputy overman, master shifter, master wasteman, or practical working miner.

It will be necessary for you, before your examination can be proceeded with, to produce to the examiners—

1. If a candidate for a first-class certificate, the survey-book of a portion of a colliery workings actually surveyed by yourself, and the plan of the same laid down by yourself, shewing the lines of the survey, and shewing the

stoppings and mode of ventilation, also a section and the levelling-book of an actual levelling made by yourself.

2. Your authorization from the Secretary of State to appear for examination. The fee payable for this authorization is £2 for a first-class certificate, and £1 for a second-class certificate, which should be remitted to the Chief Clerk, Home Office, Whitehall, by means of a Post-Office Order on the General Post Office, London, payable to C. J. Knyvett, Esq., C.B.
3. The prescribed evidence as to character, consisting of—
   Two testimonials of sobriety and general good conduct, viz.:—
   (*a*) From the present or previous employer representing the two years immediately preceding.
   (*b*) From some other respectable person (whose address must be given) representing the three years immediately preceding.
4. Evidence of experience and ability.
   This additional testimonial must be obtained from the present or last employer, stating the positions in which the candidate has been employed, and the duration of such employment, and whether his duties have been efficiently performed.

Where a candidate has served an apprenticeship, it is desirable that he should furnish a testimonial from the mining engineer with whom he served.

The examinations for this district are held annually in the month of July.

I am, Sir,
Your obedient Servant,
G. W. BARTLETT, Secretary.

Mr._____

BOARD FOR EXAMINATION FOR THE MINING DISTRICT OF WEST LANCASHIRE AND NORTH WALES.

WIGAN, 18 .

SIR,

I am directed by the chairman of the Board for Examinations for this district to inform you that the Secretary of State has been pleased to order the next examination of candidates for first and second class certificates of competency within the district

to be held in the town of Wigan, in the county of Lancaster, on , the day of next, and that such examination will be held accordingly, at the Mining School, on that day, commencing at eleven o'clock in the morning.

It will be necessary for you to present yourself punctually at the appointed hour.

The following gentlemen have been appointed examiners:—

Mr. G. C. GREENWELL, Duffield, near Derby, mining engineer;

Mr. C. G. JACKSON, Hollinwood, near Manchester, mining engineer;

Mr. N. R. GRIFFITH, Wrexham, mining engineer.

It is impossible to fix beforehand the length of time which the examination may occupy, but it is not probable that your attendance will be required for more than two days.

Each candidate must be twenty-two years of age. He must have had five years' practical experience in coal mining. He must have a fair elementary education.

The subjects fixed for examination are the following:—

For first-class certificates:—

1. The practical working of mines in the mining district of West Lancashire and North Wales, including the provisions of the Coal Mines Regulation Act, 1887, and the principles of mechanics.

   NOTE.—The attention of the candidates is directed to Goodeve's "Principles of Mechanics," published by Longmans & Co., or other text-book on the same subject.

2. "A Practical Treatise on the Gases met with in Coal "Mines, and the General Principles of Ventilation," by J. J. Atkinson, Esq., published by Mr. A. Reid, Printing Court Buildings, Akenside Hill, Newcastle-on-Tyne.

For second-class certificates:—

The examination and qualification for second-class certificates will be suitable for practical working miners, and will be such as to ascertain, principally by oral examination, the knowledge necessary for the practical working of mines in this district.

The following will be the heads under which the examination will be held:—

1. Reading, writing, and arithmetic.
2. Knowledge of the Coal Mines Regulation Act, 1887, and the special rules in force in the district.
3. The various systems of working coal.

4. Mode of sinking, working, timbering, bratticing, and ventilation.

As to both first and second class certificates :—

It will be necessary for you, before your examination can be proceeded with, to produce to the examiners—

1. Your authorization from the Secretary of State to appear for examination. (The fee payable for this authorization is for a first-class certificate £2, and for a second-class certificate £1, which should be remitted to the Under-Secretary of State, Home Office, Whitehall, by means of a Post-Office Order on the General Post Office, London, payable to C. J. Knyvett, Esq., C.B.)
2. The prescribed evidence as to character, consisting of—
   (*a*) A statement of the situations you have filled during the last five years, to which a declaration must be appended that all the allegations are true, such declaration being signed by you in the presence of one witness.
   (*b*) Testimonials from two persons (whose addresses must be given) as to your sobriety, experience, ability, and general good conduct.
3. Satisfactory evidence that you have had not less than five years' practical experience in a mine.

I am, Sir,

Your obedient Servant,

MASKELL WM. PEACE, Secretary.

Mr._____

BOARD FOR EXAMINATIONS FOR THE MINING DISTRICTS OF NOTTINGHAMSHIRE, DERBYSHIRE, LEICESTERSHIRE, AND WARWICKSHIRE.

DERBY, 188 .

SIR,

I am directed by the chairman of the Board for Examinations for these districts to inform you that the Secretary of State has been pleased to order the next examination of candidates for certificates of competency, within the above districts, to be held in the town of in the county of on the day of and the day of next, and that such examination will be held accordingly at on that day, commencing at nine o'clock in the morning.

It will be necessary for you to present yourself punctually at the hour appointed.

The following gentlemen have been appointed examiners:—

Mr. REUBEN SMALLMAN,
Mr. STUART C. WARDELL,
Mr. W. H. SANKEY.

It is impossible to fix beforehand the length of time which the examination may occupy, but it is not probable that your attendance will be required for more than two days.

The subjects fixed for examination are the following:—

1. Writing.
2. Arithmetic.
3. The winning and working of mines of coal, mines of stratified ironstone, mines of shale, and mines of fire-clay.
4. Machinery.
5. Ventilation.
6. Safety of mines and miners; and opening works after having been closed for a period.
7. Surveying and plans.

The candidates will be examined in reading, and will also be examined *vivâ voce* upon all the foregoing subjects.

Candidates for examination must be of the full age of twenty-three years.

Every candidate for examination for a certificate of competency will be required to sign an undertaking to keep the information contained in the examination papers strictly private and confidential, and also engage not to take a copy of any portion of such paper, or publish the same in any way.

It will be necessary for you, before your examination can be proceeded with, to produce to the examiners—

1. Your authorization from the Secretary of State to appear for examination. (The fee payable for this authorization is £2, which should be remitted by means of a Post-Office Order on the General Post Office, London, payable to C. J. Knyvett, Esq., Home Office, Whitehall.)
2. The prescribed evidence as to character, consisting of—
   (*a.*) A statement of the situations you have filled during the last five years, to which a declaration must be appended that all the allegations are true, such declaration being signed by you in the presence of one witness.
   (*b.*) Testimonials from two persons (whose addresses

must be given) as to your sobriety, experience, ability, and general good conduct.

Upon the first point, you must address your application for authority to appear before the Board, to Her Majesty's Principal Secretary of State for the Home Department, Whitehall, London.

Upon the latter point, the Board for Examinations has decided that candidates must produce—

1. Certificates of sobriety and general good conduct signed by the employer, if any; or by a clergyman or other minister, or magistrate, *and* two respectable residents in his district.
2. Certificates of ability and experience from the employer, if any; or from two competent persons (mining engineers or others) acquainted with mining operations.

I am, Sir,

Your obedient Servant,

WILLIAM SAUNDERS, Secretary.

Mr._____

NOTE.—This Board have not yet prepared instructions to candidates for second-class certificates, but they have passed the following resolution with reference thereto:—

"That the examination for second-class certificates be as "far as possible a verbal examination, and in accordance "with the last three lines of section 24 (2) of the Act "of 1887, which provides as follows:—'and that the "'examination and qualifications of applicants for "'second-class certificates shall be suitable for practi-"'cal working miners;' but to include an examination "paper in reading, writing, and arithmetic upon prac-"tical subjects."

BOARD FOR EXAMINATION FOR THE MINING DISTRICT OF SOUTH WALES.

, 1888.

SIR,

I am directed by the chairman for examinations for this district to inform you that the Secretary of State has been pleased to order the next examination for first-class certificates of competency within the district, to be held in the town of Cardiff, in the county of Glamorgan, on the days of next, and that such examination will be held accordngly at the Free Library Science Schools, Cardiff, on those days,

commencing at half-past ten o'clock in the morning. It will be necessary for you to present yourself punctually at the hour appointed.

The following gentlemen are appointed examiners:—

T. Forster Brown, Esq., Cardiff.
Evan Daniel, Esq., Swansea.
W. S. Rees, Esq., Aberdare.

The subjects fixed for examination are the following:—

1. Writing from dictation and correcting spelling.
2. Geology of the South Wales coal-field.
3. Arithmetic.
4. Mines Act, 1887.
5. The working and winning of coal, stratified ironstone, and fireclay.
6. Practice and theory of ventilation.
7. Practical knowledge of the machinery and boilers generally in use at collieries.
8. Underground surveying.

Candidates for examination must be at least twenty-one years of age, and must have had practical experience in a mine for at least five years.

Candidates must give the secretary to the Board (C. Henry James, 8 Courtland Terrace, Merthyr Tydfil) formal notice of their intention to present themselves for examination on or before , 18 .

It will be necessary for you, before your examination can be proceeded with, to produce to the examiners—

1. Your authorization from the Secretary of State to appear for examination (the fee payable for this authorization is £2, which should be remitted by means of a Post-Office Order on the General Post Office, London, to the Chief Clerk, Home Office, Whitehall, London, and to be made payable to C. J. Knyvett, Esq., C.B., Home Office).
2. The prescribed evidence of character, consisting of—
   (*a*.) A formal statement, duly signed by the candidate, of the situations filled during the last five years, with the date and period of each engagement.
   (*b*.) A certificate of sobriety, experience, and general good conduct from your employer or employers during a period of three years, such to be corroborated by one independent respectable person.

The authorization and certificates of character must be handed to the secretary on the . The certificates of character will be returned to the candidates after the examination.

Candidates appearing a second time for examination will be required to produce fresh evidence of their sobriety, experience, ability, and general good conduct, and also to pay a second fee of £2 for their authority to appear before the examiners.

Examinations are held yearly in this district, generally in the month of January, if sufficient candidates present themselves. Such examinations are usually held in the town of Cardiff. Candidates are at liberty to appear for examination in any district.

The secretary is instructed not to make public the questions put at any examination.

All communications respecting the examination are to be addressed to the secretary of the Board. The examiners particularly request that no letters be sent to them respecting the examination either by the candidates themselves, their friends, or employers.

I am, &c.,

C. Henry James, Secretary.

8 Courtland Terrace, Merthyr Tydfil.

Candidates for Second-class Certificates

are examined in—

Simple arithmetic.
Mines Act, 1887.
Practical ventilation.
Working coal.

They must be not less than twenty-four years of age, and must have had practical experience in a mine for at least five years.

THE EXPLOSIVES ACT, 1875

(38 *VICT. CAP.* 17).

REPRINT OF SECTIONS 3, 17, AND 59,

Referred to in Note on General Rule 12, *page* 165, *ante.*

Substances to which this Act applies.

3. This Act shall apply to gunpowder and other explosives as defined by this section.

The term "explosive" in this Act—

(1.) Means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires, and every other substance, whether similar to those above mentioned or not, used or manufactured with a view to produce a practical effect by explosion or a pyrotechnic effect; and

(2.) Includes fog-signals, fireworks, fuzes, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined.

General rules for stores.

17. In every gunpowder store the following general rules shall be observed; that is to say,

(1.) The provisions of an Order in Council relating to stores, so far as they apply to such store, shall be duly observed:

(2.) There shall not be at the same time in the store an amount of gunpowder exceeding the amount specified in the licence; and

(3.) The store shall be used only for the keeping of gunpowder, and receptacles for or tools or implements for work connected with the keeping of such gunpowder; and

(4.) The interior of the store, and the benches, shelves, and fittings therein, shall be so constructed or so lined or covered as to prevent the exposure of any iron or steel and the detaching of any grit, iron, steel, or similar substance, in such manner as to come into contact with the gunpowder, and such interior benches, shelves, and fittings shall, so far as is reasonably practicable, be kept free from grit, and otherwise clean; and

(5.) The store shall have attached thereto a sufficient lightning conductor, unless it is made by excavation or is licensed for less than one thousand pounds of gunpowder; and

(6.) Before repairs are done to or in any part of a store, the store shall, so far as practicable, be cleaned by the removal of all gunpowder and the thorough washing out of the store; and after such cleaning, these rules shall cease to apply to the store until gunpowder is again taken there; and

(7.) Except after such cleaning, all tools and implements used in or in any repairs to the store shall be made only of wood, copper, or brass, or some soft metal or material, or shall be covered with some safe and suitable material; and

(8.) Due provision shall be made, by the use of suitable working clothes without pockets, suitable shoes, searching, and otherwise, or by some of such means, for preventing the introduction into the store of fire, lucifer matches, or any substance or article likely to cause explosion or fire, or any iron, steel, or grit; but this rule shall not prevent the introduction of an artificial light of such construction, position, or character as not to cause any danger of fire or explosion; and

(9.) No person shall smoke in any part of the store; and

(10.) A person under the age of sixteen years shall not be employed in or enter the store, except in the presence and under the supervision of some grown-up person.

In the event of any breach (by any act or default) of the general rules in any store,—

(*a.*) All or any part of the gunpowder in respect to which or being in the store when the offence was committed may be forfeited; and

(*b.*) The occupier shall be liable to a penalty not exceeding ten pounds, and in addition (in the case of a second offence) ten pounds for every day during which such breach continues.

Application of 35 & 36 Vict. c. 76 and c. 77 to magazines used for mines.

59. Where a magazine or store is established for the purpose of any mine subject to the Coal Mines Regulation Act, 1872, or the Metalliferous Mines Regulation Act, 1872, by the owner (as defined by such Act) of the mine, the Secretary of State may from time to time by order direct an inspector under either of those Acts to act with respect to such magazine or store as a Government inspector under this Act, and may revoke any such order; and such inspector shall, while such order is in force, have for that purpose the same powers and authorities as he has under the said Acts, and also the powers and authorities of a Government inspector under this Act.

REPRINTS OF JUDGMENTS, AND SUMMARY OF LEGAL DECISIONS REFERRED TO IN THE NOTES ON THE MINES ACT.

SECTION 12.—WEIGHING AND DEDUCTIONS.

BOURNE *v.* NETHERSEAL COLLIERY COMPANY, LIMITED.

Queen's Bench Division, July 13, 1887.

JUDGMENT.

Mr. Justice Stephen: We do not think it necessary to call on you, Mr. Young. This case has been protracted for a long time, though I am not in the least degree disposed to complain of the extent to which it has been protracted, because it is a matter which affects the interests of a great number of persons. I do not intend to go through the whole of the arguments which have been addressed to us, or to enter into every point in connection with the matter. I have already stated in very few words what is the view which I take of the case, and on which my decision will turn, but my view is, certainly, that the 17th section read together with the earlier Act is sufficient to determine the case. The words of that section are "that the miners are to be paid "according to the weight of mineral gotten by them, and such "mineral shall be truly weighed accordingly." The Llynvi case holds that mineral may mean, or it may be agreed that it shall mean, effective mineral—round coal as distinguished from slack. Then the proviso says that the slack may be deducted—it does not say that in so many words, but it includes that among other meanings. Then it says in case the baskets are improperly filled, or in certain other cases, the deductions are to be determined "by "the banksman or weigher and check-weigher (if there be one), or, "in case of difference, by a third party to be mutually agreed on by "the owner, agent, or manager of the mine on the one hand, and "the persons employed in the mine on the other."

In this case there seems to have been a difference about these deductions—the deductions were not determined in the manner pointed out by the Act of Parliament. It is just the kind of question to which the Act of Parliament ought to apply. It does

not seem to have been either the banksman or the check-weigher who made the deductions, but it was, in fact, the boy who had the management of what is called the "Billy Fairplay"; and although it is said that the miners agreed that that mode of settling the dispute should be adopted instead of the mode declared by the Act of Parliament, I think the Act of Parliament is express, and that it is not competent to them to contract themselves out of the Act by a contract of that nature.

I think, further, with regard to the evidence, that they actually did so, although I take it to be expressly found by the county court judge that that had been done, and I should have said there was evidence on which he might do it. I do not observe that that is the ground on which he puts his judgment, or that he makes any distinct finding in his judgment upon that point at all. Putting it all together, therefore, I think there will have to be judgment for the plaintiffs for the amount claimed.

Mr. Justice Wills: I am of the same opinion. The case is by no means free from difficulty, and, like my learned brother, I make no complaint of the length to which the discussion has proceeded. On the contrary, I am obliged to Mr. MacClymont for the arguments which he has addressed, and which have helped to bring out very clearly what the points in dispute are. In this instance the plaintiffs claim to be paid for the deductions which have been made, that is to say, they claim to be paid upon the weight as ascertained by the only way in which it was taken. The 17th section provides that "the wages shall be paid according "to the weight of the mineral gotten by them, and such mineral," that is, the mineral gotten by them, "shall be truly weighed accord-"ingly." Then upon that is engrafted a proviso which says that nothing shall preclude the owner of the mine agreeing with the workmen that deductions shall be made in respect of materials other than mineral contracted to be gotten. The expression in the second clause is "mineral contracted to be gotten," the meaning of which is, if the parties have agreed that the mineral which is to be gotten is to be understood in another sense than the whole of the substance which is gotten. Now, in this instance, considering the importance of it, is that an agreement which would be permitted by the Act of Parliament? Is there anything in the Act of Parliament to interfere with it? Of course, when such an agreement has once been made, inasmuch as they are to be paid, not under such circumstances, but they are to be paid upon the weight of the effective and valuable mineral which they have got, the result of the second part of the section as engrafted

upon the first is that it reduces the "mineral gotten" by them in the first to an equivalent to the "mineral contracted to be gotten" by them in the second part of the clause. Then it seems to me that this proviso, so far as it prevents the Act from interfering with making agreements of that sort, is satisfied, and that it was not intended to go further, and was not intended to say, "and "they may agree that the amount of these deductions shall be "ascertained in any way that they choose, or that they may actually "agree upon;" because, if so, it either would not have referred to the method of ascertaining the deductions, or, if it had referred to it, it would have said, "Beyond the method provided in such "other manner as they may agree upon;" but that being the obvious way of dealing with the subject-matter, if what Mr. MacClymont contends was really intended, namely, that they should be able to make their agreement valid; the second goes on to say that the deduction shall be determined in a specific manner, namely, by the banksman or weigher, that is, the person, either one or the other, appointed by the mine owner, and the check-weigher if there be one.

Now, in this instance there was a check-weigher. In passing, I must say it seems to me that the Act of Parliament, by pointing out that method, meant to prevent other methods, and one knows very well what the origin of this legislation was. It was that there were continual quarrels between the masters and the men, which resulted in disastrous strikes, and in which the common and continual complaint was that the thing which had been agreed upon between them was unsatisfactory because it was unjust in itself, and, though the parties had agreed upon it, it was one which was capable of operating to the disadvantage of the men—that was the continual subject of complaint. This enactment was intended to put a stop to all that by saying, "You shall "not be free to make these contracts which are open to this "difficulty and which produce such disastrous results upon the "industry of the country at large, of this nature, and in order to "prevent those mischiefs we, the Legislature, say that the amount "of the deduction shall be determined in this specific and particular "manner." It is impossible not to see that the notion of the person who put those words into the Act that the amount should be determined by the banksman or weigher and the check-weigher, and the person who at the same time used the language in section 18 was, that one check-weigher could do whatever was necessary in order to ascertain both the gross weight and the deductions, and the Act of Parliament is framed upon that scheme. I do not

say that I make that a ground of my decision in this case, because it opens up a large and a difficult question, and it is not necessary, I think, for the determination of the present case. I think it is far better in matters of this kind not to act on anything beyond what is necessary for the determination of the case. But this matter is perfectly clear. Where there is a check-weigher, which there undoubtedly is, and a check-weigher who was supposed to be by section 18 a competent man to do what is necessary in order to ascertain the weight upon which the men were to be paid, there being this check-weigher, how have the deductions in this case been determined? Why, they have been determined, not by the banksman at all, either in conjunction with the check-weigher or without the check-weigher. If it be said that what was done at the second machine on the second weighing comes under the operation of the implied permission in section 17, they shew that the banksman has not done it. But how has it been done? It has been done by a boy, who has recorded the weights shewn by an automatic machine. It appears to me that is contrary to the Act of Parliament, and that there have been no deductions ascertained in such a way as to entitle the mine owner to take the benefit of the deductions. That being so, it follows that he cannot take the benefit of them, and that therefore the plaintiffs are right, because the only deductions which the defendant would have a right to make would be deductions which are justified by their ascertainment in the manner provided for by section 17, which has not been done. It seems to me, therefore, that upon that short ground our judgment must in this case be for the plaintiffs. Therefore this appeal must be allowed.

Mr. Alfred Young: That is applicable to the two cases, my lord.

Mr. Justice Stephen: Yes; in both of them the same judgment will be given.

Mr. MacClymont: Will your lordships in this case allow us to consider whether we will take a further opinion?

Mr. Justice Stephen: It is a question of wide and general importance, and I think it is a very proper case.

Mr. MacClymont: At least to consider it.

Mr. Justice Stephen: Yes.

Mr. MacClymont: Will your lordships stay execution if we appeal within a reasonable time?

Mr. Justice Stephen: Execution stayed for a fortnight; and, if you appeal, or give notice of appeal within a fortnight, till the appeal is decided.

Mr. MacClymont: If your lordship pleases.

BOURNE AND OTHERS *v.* THE NETHERSEAL COLLIERY COMPANY, LIMITED.

Court of Appeal, March 1, 1888.

JUDGMENT.

Lord Esher: It seems to me the first thing I have to do in giving judgment in this case is to state what my view is of the construction of the contract, and, having construed the contract, to see what effect, if any, the Act of Parliament has upon it.

In order to construe this contract one must follow the rule that you have a right to take into consideration the circumstances of law or fact existing at the time when the contract was made, and that, therefore, in order to construe this contract, one is entitled to consider that it was a contract made after the Act of Parliament was passed, and that it was a contract made with reference to the Act of Parliament, because in the contract there are words used which obviously relate to the very words which are used in the section of the Act of Parliament. So that in the making of the contract the section must be taken to have been in the minds of the people who made it.

Now, in construing this contract, subject to that knowledge, it seems to me to be a contract that the masters should employ the men, and the men should engage to work or get all the coal which is in the seams. It is not a contract that the men were only to get coal of a certain size—they were to get all the coal in the seams, and therefore they contracted to get all the coal. The question on the other side is, What were they to be paid for? Having regard to what I have said, it seems to me that, by the terms of the contract, it is agreed that coals sent from the stalls and headings shall be paid for at 1*s.* 6*d.* per ton. It is implied there, for it is not stated, that the men are to get the coal from the stalls and headings, and for the coal that they so get they are to be paid at the rate of 1*s.* 6*d.* per ton. The written agreement then goes on: "A premium of 2*d.* per ton on the coal will be "paid to all those places whose boxes of coal do not contain an "average of more than 112 lb. of dust each per box." I agree that that is a premium in order to stimulate the men to make as little slack as possible, but it does not interfere with and is not inconsistent with the former part of the contract, which stipulates that they are to be paid 1*s.* 6*d.* per ton for the coal sent from the stalls and headings; in other words, got at the stalls and headings. Then there is this, "No slack whatever will be paid

"for except that sent out as 'heading slack.'" Recollecting that this agreement was made after the Act of Parliament, and that it uses the terms of the Act of Parliament, what do they say? "All "other slack will be deducted from"—therefore they treat it there as a deduction—"the different places in proportion to their load-"ing."

Now we come to the printed agreement, and this seems to me to be an endeavour to give a meaning to a part of the deduction stated in the statute, which, if they give the same meaning as we give, is a wholly immaterial part of the contract; but if it is different from the meaning which we think the Act of Parliament bears, this is an attempt not to make any contract with regard to the coal which is gotten, but to give a meaning to the words in the statute which those words, according to ordinary reading, will not bear. Now, it is true that the men agreed to get this coal, and if it be true that this Act of Parliament is not intended to interfere with the freedom of contract between masters and men at all, all that can be said is that these men have agreed to the terms, and that, therefore, the Act of Parliament has nothing to do with them, and they are bound by their agreement.

Now, having so construed the contract, the next question comes to be, What is the construction of the Act of Parliament, and how is it to be applied? Is it, or is it not, intended to interfere with freedom of contract? After reading the section, so far from agreeing with Lord Maclaren * (although I have tried to understand his judgment, and read it with the respect due to a carefully worded judgment) that this Act was not intended to interfere with the freedom of contract between mine owners and miners, I am strongly of opinion that that was the primary intention of this part of the Act—that it was an intention to interfere with the freedom of contract, and to forbid the masters to bind the men, even though the men were willing to be so bound, to contracts which are contrary to the Act of Parliament. I do not think that a contract made inconsistent with this Act of Parliament, as to some part of it, is an illegal contract. I do not say that it is illegal; what I say is, that the Act of Parliament

* This refers to the Scotch case of Hynd *v.* Spowart, which decided that dross might be separated from the coal, and that a contract to this effect was not inconsistent with the Coal Mines Regulation Act, 1872. The same case also decided that the "Billy Fairplay," which separately weighed the round coal and the small coal and dross separated by the scree, was a lawful weighing machine under that Act. See note of the judgment in the case, which is given in this Appendix.—M. W. P.

declined to allow it to be considered as the contract, and insisted upon a particular term of the contract as being the one which the parties cannot contract to the contrary of. The moment you get the contract sufficiently within the words as to what the coal is to be gotten and the rate at which it is to be paid for, and if the rate of wages depends on the weight, then the Act of Parliament steps in and says the miners must be paid according to that weight and you cannot contract to make deductions except those which are allowed, and if you do, it does not say that the contract is void, but those deductions are void. The contract stands as if it were written without them. That will depend on the words of the Act of Parliament, "Where the amount of wages depends on "the amount of mineral gotten by them," that is, by the miners, "such persons shall be paid." Now there is a commanding enactment that they *shall* be paid; it does not say they shall be *contracted* to be paid. The Act of Parliament was not wanted for that. The only part which is a condition is this, "Where the "amount of wages depends on the amount of mineral gotten," then all the rest follows, "then such persons shall be paid "according to the weight of mineral gotten by them." That seems to me to be an enactment positive and commanding that if the contract as to the getting of the mineral is that it is to be gotten, and that the wages are to depend on the weight of what is so gotten, then at once you cannot put any limitation upon the payment other than this, that the payment is to be according to the weight, that is, according to the weight of the coal gotten, and which they are employed to get. But then those who drew the Act of Parliament wished to have the power to make some deduction from that, and it is obvious that Parliament would not agree to allow them to make all the deductions which they might wish; and, moreover, Parliament would not agree to allow them to contract to make all deductions or any deductions which both sides pleased, because the proviso is, that nothing herein contained shall preclude the owner from agreeing with the persons employed that deductions shall be made. It seems to me obvious that when you look at the proviso, and the terms of it, that it throws back a strong light on the previous provision, and shews that if it were not for the proviso no deduction whatever could be made from the obligation to pay according to weight. It is so strong as this, to shew that the Legislature meant that no deduction should be made even although it were agreed to be made, because in the second part they say, nothing herein contained shall preclude the owner from agreeing with the

persons employed that deductions shall be made. That seems to me by necessary implication to shew even by agreement you can only make the deductions that are allowed. Now, what are those deductions? "Deductions shall be made in respect of stones or "materials other than mineral contracted to be gotten." Now, if stones are a necessary part of that which the man is to get, and he cannot get the mineral he is employed to get without getting stones mixed up with it, it is obvious that he is employed to get the stones too. That is clear, and when we know that in many minerals there are stones which are mixed with the strata, then it is clear what is meant. The words are "Stones or materials "other than mineral contracted to be gotten." Now, much has been observed on those words, "other than mineral contracted to "be gotten." It seems to me that the meaning of the words "contracted to be gotten," is the mineral which they are to get. If it is coal, and they are employed to get coal, they are not employed to get any other mineral, if any other mineral is near, such as clay or ironstone or other things which might be called mineral. Those words mean the mineral which they have contracted to get, and if they have contracted to get coal that is the mineral, and if they have contracted to get iron that is the mineral contracted to be gotten.

It does not mean that they can contract that the men should get all the mineral, and that then they should only pay for part of the mineral gotten—it is the mineral contracted to be gotten. Then there is another thing which they may agree to deduct in respect of the tubs, baskets, or hutches improperly filled. That is, to my mind, the meaning of the Act of Parliament, namely, that the moment you see that the contract is that the men are to get the mineral, and that they are to be paid according to the weight of what they get that moment, no deductions are to be made except those allowed, and no agreement to make any deduction other than those is valid. Any agreement to make other deductions is to be cast out of the agreement. That is what the Act of Parliament means, and it is for the protection of the men.

Now, if that be so, it seems to me that, construing this contract as I have construed it, it is really an agreement that the men should get the coal, and I have no doubt, as a matter of fact, that what is called "slack" is part of the coal which they so get. It is not another mineral—it is *the* mineral, it is part of the mineral which they are bound to get. They are bound to get slack; they must get it. They are employed to get it, and it is

their duty to get it as part of the coal. Therefore, if that be so, are they to be paid according to the coal they get? It seems to me they are. The coal sent from the stalls and headings shall be paid for at 1*s.* 6*d.* per ton. Coal certainly includes the slack when it is sent from the stalls and headings, and that is to be paid for at 1*s.* 6*d.* per ton.

In my view of this contract, that which is stipulated for with regard to the slack is stipulated for as a deduction, it being on the face of the contract so stated; and if you want more to enable you to construe the contract, you will see that the mode in which the parties from the beginning dealt with this contract shews that they understood it was meant as a deduction, because, when you find the coal and slack were sent up together to the pit's mouth, and that the moment they got there they were weighed together and the weight given to the men, that was what they had got in the pit, what they were bound to get, and what they were bound to send up to the surface. The whole of that was weighed, the weight was determined by a weigher, and a check-weigher placed there for the purpose. So that the masters and men acted on the view of the contract, that that was the weighing of what they had got and sent up. Then the coals were sent on further, and something else was done to them. The whole of the coals at the second place were not weighed, the coal was divided, the large coal from the slack, which was part of it. The large coal which had been got up by the men was at the second place divided from the other part of the coal which they had also got, namely, the slack, and it was only the slack that was weighed. Therefore, what was to be paid to the men, according to the view of the masters, was not ascertained there, for if the first weighing had been left out, there would have been no weighing that would tell the men what they were to be paid for at all. What was done was that the weighing at the first place was taken to be the weighing, and what was weighed at the second place was deducted from the weight arrived at at the first place. The way in which they acted on their contract was by way of deduction, and by nothing else, and, therefore, upon the construction of the contract dealt with before the Act of Parliament; and if you take into account the way that they acted on it from the moment it was made, it seems clear to me that what was deducted was the slack by way of deduction.

Now I come to the Act of Parliament. Is that one of the deductions which is allowed? I am of opinion that it is not, because it is clear to my mind that within the meaning of the Act.

of Parliament slack is not material other than mineral contracted to be gotten; it is part of the mineral that was contracted to be gotten, and therefore it was not allowed, according to this proviso, to be deducted. Being of opinion that the true construction of the statute is that only deductions mentioned in that proviso can be deducted, and that nothing else can be deducted—being of opinion, upon the true construction of this statute, the men were to be paid 1*s.* 6*d.* per ton for the mineral which they got, which included the slack, it seems to me that the Act of Parliament has prevented the deduction and has left the contract to be carried out according to the Act of Parliament, without deductions. I therefore think the men are entitled to be paid the full price.

Now I must deal with the cases. There is first of all the Scotch case, Hynd and another *v.* Spowart & Co. I think that is the principal one. If we differ from the Scotch case, it is obvious we must differ from the case of Jones and the Llynvi Colliery Company in the Divisional Court.* I have already noticed certain portions of the judgment of Lord Maclaren in the Scotch case. He says: "The question arises whether a contract in such terms "as that under which the pursuers worked is a contract permitted "by the statute, or whether it is a contract essentially different "from that which the statute permits, and is therefore illegal." Now, I object to that statement of the question. I do not think that the statute makes the contract which does not carry out all its provisions an illegal contract; I think the meaning of the statute is, if you once get it so far within the section that the amount of wages is to depend on the amount of mineral gotten, the statute does not make the contract illegal because deductions are agreed upon which are contrary to the statute. It leaves the contract perfectly legal, but voids and takes out of it that which is contrary to the allowed deductions. Therefore I object to that mode of stating the proposition.

Then he deals with the contention of the two parties. That is not material. Then he goes on, "According to the best opinion "I can form of the intention of the Legislature, I conceive that it "was not intended by these enactments to interfere materially with "freedom of contract between master and miner." I venture to differ from him, and to say that my opinion is strong and clear that that was precisely what the Legislature did intend, that they intended to interfere with freedom of contract for the protection of the miners.

The Legislature have come to the conclusion that miners, with

* See reprint of the judgment in this case, post, p. 307.

regard to mine owners, were somewhat in the same predicament as sailors were with regard to shipowners, and in the same way as in the Merchant Shipping Act they have interfered with freedom of contract, and will only allow contracts to be enforced in a particular way—that is, articles. The Legislature have come to the conclusion that miners were in the same somewhat unequal position with regard to mine owners that sailors were with regard to shipowners, and they intended to interfere with the freedom of contract, to protect the miners in the same way as they protected the sailors. Lord Maclaren goes on, "Or to prescribe "regulations except in so far as such interference or regulation is "necessary to the accomplishment of the object, that the quantity "of mineral gotten should be determined by weight. The purpose "of the enactment, as I think, was to prescribe securities for the "just fulfilment of the master's obligation under the contract of em-"ployment, and to protect the miner against loss through fraud." If that is read literally it really means that the object of the Legislature was to carry out the contract whatever it might be; but Lord Maclaren says the object was to "prescribe securities "for the just fulfilment of the master's obligation under the con-"tract of employment." With deference to him, if that is to be taken as the meaning of the statute, the statute was not wanted at all. The statute is idle and useless, and it is a mere farce on the Statute Book, because you do not want a statute to prescribe securities for the just fulfilment of an obligation in a contract. The law will do that for the men, and, if it is meant as security other than the law, I fail to see any security whatever that the men have got if it is to be a security for the just fulfilment of the master's obligation. I see none if he is allowed to make what contract he will. Then he goes on, and he says, "If there were "absolutely no loss of coal by waste in its transmission along the "underground passages and through the pit, the payment of wages "upon round coal over the scree would be unobjectionable. Cer-"tainly if the only thing that could be got was round coal there "would be no deduction to be made and the statute would not be "wanted, whether it is regarded as payment for coal as it leaves the "working face subject to deduction for improperly filling, or whether "it is regarded as a payment for coal contracted to be held as "gotten when brought to the pit head." Now, mark this, "The "spirit and intention of the statute is, in my opinion, entirely con-"sistent with such a mode of payment; under such a system, the "miner is paid wages upon the whole saleable coal which he sends "to the pit head."

Now, where in the statute is there anything to authorize the

learned judge to say that the spirit of that statute is that the miner is to be paid for the saleable coal? What difference can it make to him whether he is paid his wages according to what he does, whether it is saleable or not? He works just as hard to get saleable coal as the unsaleable coal. I see nothing in the statute which authorizes the suggestion that the spirit of the Act is that he is to be paid according to the saleable coal. Then, again, he states this: "It is in evidence that in Lanarkshire mines the coal "and dross mixed together are sold under the name of triping, "and where dross is sold as coal there can be no doubt that the "miner is entitled to be paid wages upon the cumulo weight of "coal and dross sent into market, and it is in evidence that they "are so paid without deductions." I cannot see what the miner has to do with the market; it is wholly immaterial to him whether the master sells at a profit or at a loss. I believe at one time lately coals in certain parts of England were sold at a loss. What had that to do with the miner? It had nothing to do with him. That was the misfortune of the master, and it depended on the market, and had nothing to do with the operations of the miner. Then he goes on to say that he finds nothing in the contract which is unlawful. I agree with him. And he says, "I think it is for the "owner of the mine to determine what description of mineral he "will excavate for the purpose of sale and for the making or getting "of which he will pay wages. I do not find in the statute any "direction that wages shall be paid on mineral not contracted to "be gotten." I agree entirely in that. "Whether the separation "of the saleable material contracted to be gotten from the unsale-"able is effected in the act of winning the coal, or by any other "subsequently performed, appears to me to be immaterial. "The dross may, in a sense, be mineral gotten by the miner, but "it is not the mineral which he is employed to get." If you can get the mineral without getting the dross, and he is employed only to get the mineral, of course he would not be paid in respect of the dross. If the mineral cannot be got without getting dross, then he is employed to get dross as well as mineral. Therefore, the point taken by the learned judge does not arise. Then he says, "If, then, the owner of the mine in the prosecution of his "business treats the dross, however formed, as refuse, I think he is "entitled to contract with his men that it shall be so treated for "the purposes of employment, and if he contracts for a round coal "he is not bound to pay for dross." Now, if the learned judge means, as I say, that the coal can be got without getting the dross, so that the men are not employed to get the dross, I agree

with him; but if he means that the men are employed to get the coal with the dross, the dross being part of the coal, and then says that in his opinion under this statute the master is entitled to pay according to the weight of the coal got, leaving out any payment in respect of the dross, which the men are also employed to get, then I do not agree with him, and I think it is in the very face of the meaning of the Act of Parliament. Then Lord Maclaren says, "I think that in this case round coal over the scree "is the mineral contracted to be gotten." If that is true, naturally he would be paid for the coal. "And I find nothing in the statute "which obliges the employer either to contract for the getting of "dross or to pay wages on the weight of dross when dross is not "contracted to be gotten." Now, if it was true in that case in Scotland that it was capable of division so that the men were not employed to get the dross at all, then in that case one would agree with what is stated; but if the dross and the coal were so mixed that the coal could not be got without getting the dross, so that upon the fair construction of the contract the men were employed to get the dross as part of the coal, then I cannot agree with the decision, and, therefore, it is not in accordance with my view of the statute, and as we are not bound by it I respectfully decline to follow it.

Then, with regard to the case in the Divisional Court of Jones *v.* The Llynvi Colliery Company, the Welsh case, of course we are not bound by it, and, having dealt so fully with the Scotch case, I must say that I cannot follow the English case.

Now, that which I have stated is sufficient to determine this case, as it seems to me. It is not necessary to determine anything about the question of the weigher, but still I will say this, that in my judgment the moment you have got the case within the section, and deductions are claimed to be made by the owner according to a true construction of this section, the burthen of proof is on the owner to shew that the deductions are such as are allowed by the proviso, and it is for him, therefore, if he is claiming a deduction from the weight under the terms of the proviso to shew that he has properly ascertained the deductions which can be made, therefore it would be for him to shew that the weighing was such as enabled him fairly as between him and the men to claim the deductions and the amount of the deductions which he was claiming to make, and it was for him, therefore, to shew that the coals were weighed according to the terms of the Act of Parliament as between him and the men, so as to entitle him to deduct any given weight of the slack from the coal, even if he

could have deducted it, that is, if it had been stone or other mineral. Under that view, it seems to me here, the place of weighing fixed by him himself was at a place near the pit's mouth, and it was there he and the men had agreed that the weighing should take place, and it was there that the men had exercised their right (because he had fixed that place for the weighing) to appoint a check-weigher there, and that after he had appointed that place, and had pointed it out to the men as the place, and had accepted with the men that place as the place of weighing where they were to place their check-weigher, he could not, until he altered that place, weigh the coals anywhere else, in the presence of anybody else, and inasmuch as at that place which he had fixed as the place of weighing there is no weighing which even if this had been a deduction which might be deducted, then there was no weighing at that place which could have entitled him to say, "I am entitled to deduct a given weight." There was no weighing there which would shew what weight he could deduct. He could deduct nothing, and that whilst that place continued fixed by him as the place of weighing, he was not entitled to go away from that place, and in the absence of a check-weigher, to do a part of the weighing which would, in the absence of the men's check-weigher, determine the amount of the deduction which he would, if it had been properly weighed, have been entitled to make. Therefore, even if this slack could have been deducted according to the proviso, I think that the mine owner here would not have enabled himself to deduct in respect of that, because he would not have properly and truly as between him and the men weighed in respect of that deduction; he did truly weigh for the whole amount of what they got, he did not truly weigh in respect of the deductions. In either view of the case, therefore, I am of opinion that I cannot agree with the decision of the county court judge in this case, and that the judgment should be entered for the plaintiff.

Lord Justice Fry: In this case I have the misfortune to differ from the Master of the Rolls and my learned brother, Lord Justice Lopes, and I need not say that, although it is with great diffidence, it seems to me that it is my duty to express my opinion on the case.

It appears to me that we are bound to look at the statute to learn from that what were the evils the Legislature had in view to remedy, and what was the form of remedy the Legislature intended to introduce.

Now the 17th section of the statute in question, 35 & 36 of the

Queen, begins by stating a certain contingency or event, and there it contains a certain enactment which arises upon that contingency —the contingency, which is stated in terms which, read shortly, amount to this, where the amount of wages paid to any miners depends on the amount of minerals gotten by them, such miners shall be paid according to the weight of mineral gotten by them and such mineral shall be truly weighed accordingly. The contingency therefore is expressed by saying that where the amount of wages depends on the amount of mineral gotten, the amount shall be ascertained by weight and the mineral shall be truly weighed. That is all that the first portion of section 17 seems to me to say.

Then comes a proviso which deals with the question of deductions from the weight of mineral gotten, and it provides for the ascertainment and certifying of those deductions.

Then comes a clause which enables the Secretary of State to postpone the application of the section.

Then there comes a clause which makes any contravention or failure to comply with the section penal.

That is followed by the 18th section, which again deals with the case of persons who, being employed in a mine, are paid according to the weight of the mineral gotten. Now we observe the change of language.

The 17th section starts with the case of persons who are paid according to the amount of mineral gotten, and the 18th section takes up the enactment of the 17th section and deals with the case of persons who are paid according to weight. That follows from the fact that the 17th section says, "Wherever you are paid "by amount you shall be paid by weight."

Now, that is the general nature of the enactment, and if I were to gather, as I am bound to gather, the nature of the evil contemplated by the Legislature from the enactment of the Legislature, I should gather there were two evils in their contemplation. One was this. The measurement might take place by yard or foot measure, or by gauge or some other way than by weight, and that mode of measurement, I suspect, was open to some dispute less easily ascertained with certainty than the measurement by weight, and therefore in the interests of the miners it was thought desirable to substitute weight for every other measure of amount.

The next evil which appears to me to have been in their contemplation is this. Although the masters might be guiltless of fraud, although they might be perfectly honest and honourable men, and the persons employed by them might be honest and

honourable, yet inasmuch as the weighing was in their hands, and the deductions were to be made by their servants, suspicions might arise in the minds of the miners; it was desirable in their interests that any such suspicions should be allayed by providing for the mode of weighing, and providing for the checking of the weighing, and for providing for the checking of the deductions. That is the second evil which the Legislature had in its contemplation, as I gather from the legislation itself.

The next observation I desire to make is this. We must consider what means of payment by wages either do exist or might exist, and must therefore have been in the contemplation of the Legislature at the time of the passing of this Act. Now, it is obvious that wages might be paid by time. That is not aimed at in any way by this section; it is left open. Wages might, in the case of a co-operative colliery, in a colliery carried on partly on co-operative principles, be paid more or less directly in proportion to the profits of the whole concern. We know that that system of payment has been introduced into many kinds of labour of late years, and for aught I know may have been introduced into collieries.

Again, it is conceivable that the coal gotten is to be paid for by the amount of coal sold. Again, as I believe may be the case, it is obvious that the wages might depend on the total amount of coal gotten—that is the great contingency aimed at by the statute. Again, it is obvious that the wages might depend, not on the total amount of coal or mineral gotten, but on a particular part of it. This statute applies to mines of stratified ironstone. It is conceivable that the miners and the mine owners might contract to pay, not according to the whole amount of ironstone gotten, but according to that part of it which shall contain a certain percentage of the metal, and the very case before us illustrates the possibility of paying, not according to the amount of mineral gotten, but according to the amount of a particular part of the mineral gotten.

Now, these being the modes in which payment of wages might be made, the Legislature were not minded to say, "You shall not "pay according to any of these modes"—they were minded to deal with a peculiar contingency, namely, the contingency of the wages depending on the amount of mineral gotten by the miners. When that happened, then certain things were to follow. It appears to me, therefore, that this section is not one which creates any statutory form of contract or which avoids any form of contract with regard to wages, but simply takes hold of a

particular mode of paying wages, and says that then, when that is found, certain things shall follow. That is my view of the enactment.

Then arises this question, Have we or have we not a case in which the amount of wages paid depends on the amount of mineral gotten? To answer that we must consider what was the real relation constituting the contract between the miners and the mine owner.

Now let me observe that in my judgment the mineral gotten by them (I am not speaking about mineral *contracted* to be gotten) necessarily was the entire coal, whether that coal ultimately assumed the form of large coal or of slack.

But the contract between them appears to me to have amounted to this, that, instead of being paid on the entire amount of mineral gotten, they should be paid a certain rate, namely, 1*s.* 6*d.*, on that part of the mineral gotten, which ultimately, that is to say, after it had been severed from the face of the coal, after it had been carried along the tramway, after it had been drawn up the shaft, after it had passed along the ultimate tramway, that portion of it which ultimately remained in the condition of large coal was to be paid for at the rate of 1*s.* 6*d.* per ton. Then 7*d.* a ton was to be paid for a particular kind of slack, namely, that slack which was obtained in running the headways when they desired to extend the stalls in the mine; and, lastly, all other slack was not to be paid for. The total amount, therefore, of mineral gotten was divided into three kinds, of which two were to be paid for and one was not. The result is that instead of the wages depending on the amount of mineral gotten they were to depend on a particular part of the mineral gotten. Now, it appears to me that although the word "deduction" is used in what I may call the second contract of July 1886, it is only used for the purpose of shewing how the slack is to be dealt with: "All other slack will be "deducted from the different places in proportion to their loading." That is the mode of distributing the slack. They find so much slack in the ultimate result, and they distribute that amongst the stalls according to that particular mode. It is quite true that the word "deductions" is mentioned, but I am bound to look at the substance of the contract, and I repeat that, according to my view, the contract in substance is one to pay wages according to the amount of a particular part of the mineral gotten. If that be the true view, which to my mind it appears to be, the statute cannot have intended to avoid any form of contract at all; it could have, as I say, only intended certain things in a particular

contingency. That contingency not occurring in the present case, in my judgment the contract is not in any way affected by the 17th section.

Now, that is the conclusion at which I arrive from the words of the statute. I cannot help observing further, that, in my judgment, we are not to turn enactments which deal with a particular contract into enactments avoiding all other contracts, nor are we, where the Legislature have thought fit to inflict penalties in contravention of the statute, to be unusually lax or remiss in the mode in which we construe the statute. To my mind, the construction of the statute given by the Court below and by the Master of the Rolls is not the exact construction of the statute.

There is one other observation I wish to make, which is this—that, even supposing my conclusion is wrong (which no doubt it must be taken to be), I am at a loss to see what right the men have to insist upon receiving 1*s.* 6*d.* for the slack in respect of which they stipulate that they shall receive nothing. If they are to be paid at all independently of their contract, I should have supposed that that would be on a quantum meruit as to the amount per ton. Why 1*s.* 6*d.* should be taken as the price of slack, and not 7*d.*, I cannot understand. However, what I rely mainly on is my construction of the statute and my construction of the contract.

Lord Justice Lopes: I have arrived, in this case, at the same conclusion as the Master of the Rolls: and it appears to me in the first place to be important to consider what the object of the Legislature was in passing section 17 of the Coal Mines Regulation Act. Now, it is impossible to extract any particular mineral without extracting some other materials, the extracting of which involves great labour. Now, this is essentially the case with coal, where slack is produced at each process, not only in the extracting of the coal from the mine, but also in its subsequent transportation to where it is desired to convey it. In my opinion, the Legislature, when it passed section 17 of this Act, intended to interfere with the freedom of contract, and I think that section was passed for the protection of men working in mines in order to secure them adequate compensation for labour actually expended where they are to be paid by the amount of mineral gotten as contra-distinguished from where they are to be paid by time or by piece work. It is clear that they would not be adequately remunerated for mineral actually gotten, unless they were paid on the gross amount extracted.

Now, that being so, it is necessary to consider whether this case can be brought within the purview of section 17. In my opinion, directly the wages or method of payment are made to depend on the amount of coal gotten, the case comes within that section.

The words of the section, to my mind, are clear. "Where the "amount of wages paid to any of the persons employed in a mine "depends on the amount of mineral gotten by them, such persons "shall be paid according to the weight of the mineral gotten by "them."

Now, what is the construction of this agreement? I think the true construction of the agreement is this. Bearing in mind the fact that it is an agreement made after the passing of this Act, and is made in reference to this Act, I think it is an agreement by which the employer agrees to pay, and the men agree to receive, 1*s.* 6*d.* per ton for the coal gotten, including the slack. Now, if section 17 had stopped at the first paragraph, it would have been necessary to say nothing more; but the Legislature clearly thought there were cases where the deductions ought to be made, and in the next part of that section the Legislature appears to have taken great care to specify in respect of what the deductions may be made. Now, the words here again are most important:—"Provided always that nothing herein contained "shall preclude the owner, agent, or manager of the mine from "agreeing with the persons employed in such mine that deductions "shall be made in respect of stones or materials other than mineral "contracted to be gotten." Now, applying those words to the present case, the deductions here are made in respect of slack.

It is perfectly clear that slack cannot be said to be stones, nor can it be said to be material other than the mineral contracted to be gotten. What is the mineral contracted to be gotten here? Beyond all question it is the coal. What is slack? Slack, again I say, beyond all question, is a portion of that mineral contracted to be gotten, namely, coal. Therefore, in my view the deductions in respect of this slack cannot be brought within the deductions which are authorized by this section.

The Divisional Court, however, did not decide the case upon the point with which I have been dealing. The Divisional Court decided the case thinking itself bound by the Scotch case and the case of Jones *v.* The Llynvi Colliery Company upon another point namely the second paragraph of section 17, that even if these deductions were authorized (which the Divisional Court assumed, acting upon those cases) they were not properly ascertained. I

think the Divisional Court was right in that, although, having regard to the view I take of the first point, it is unnecessary for the purposes of this case to decide that point.

With regard to the Scotch case and the case of Jones *v.* The Llynvi Colliery Company, like the Master of the Rolls, I am unable to agree with those cases.

A point was made with regard to the penalty clauses, but I think it unnecessary to allude to those clauses. I think it unnecessary to consider what the proper construction of those clauses may be, because, whatever their construction is, even if it is the construction contended for, I cannot see that it in any way interferes with the plaintiffs in this action recovering that which they seek to recover.

I am of opinion, therefore, that this appeal should be dismissed.

Mr. Rigby: The case is a very important one, not only as regards these matters, but as regards many other cases, and I am not quite sure whether it is necessary for your lordships to give leave to appeal.

Lord Justice Lopes: You do not want it.

The Master of the Rolls: If you do, you have it.

Lord Justice Lopes: You require leave to come here, but not leave to go further.

Mr. Rigby: I understood that was so, but I mentioned it in order to make sure.

The Master of the Rolls: To make it quite clear, we give you leave.

Mr. Rigby: If your lordship pleases.

The Master of the Rolls: I believe that no leave is necessary.

Mr. Rigby: I think not.

Printed Agreement referred to in the Above Case.

I, THE UNDERSIGNED,_____

HEREBY agree to serve THE NETHERSEAL COLLIERY COMPANY, LIMITED, Proprietors of the Netherseal Colliery, near Burton-on-Trent, from this date, and to obey the General and Special Rules and Regulations of such Colliery, a copy of which I hereby acknowledge to have received. I also agree that the "Mineral contracted to be gotten," referred to in the Coal Mines Regulation Act, 1872, shall in all cases mean and include only such pieces of clean coal as cannot fairly be passed through an ordinary loading rake, the clear spaces between the prongs of

which are two-and-a-half inches wide. And I also agree to give or take fourteen days' notice to determine my service; and I, the undersigned, on behalf of The NETHERSEAL COLLIERY COMPANY, LIMITED, hereby agree to employ the above-named person upon these terms and conditions subject to all stoppages which may arise from accidents, want of trucks, slackness of trade, or other causes beyond our control.

Dated the day of 18

For the NETHERSEAL COLLIERY Co., LIMITED.

_____ Manager.

Witness_____

Written Agreement referred to in the Above Case.

NETHERSEAL COLLIERY, *July* 1886.

It is agreed to-day that Coals sent from the Stalls and Headings shall be paid for at 1*s.* 6*d.* per ton, and Heading Slack at 7*d.* per ton; all other prices as at present paid to remain in operation. A premium of 2*d.* per ton *on the Coal* will be paid to all those places whose boxes of *Coal* do not contain an average of more than 112 lb. of dust each per box per week. No Slack whatever will be paid for except that sent out as Heading Slack; all other Slack will be deducted from the different places in proportion to their loading. This Agreement to be in operation on and after Wednesday last, the 30th day of June, and to terminate after fourteen days' notice on either side, to expire on any Saturday.

(Signed)

JONES *v.* THE LLYNVI AND TONDU COMPANY, LIMITED.

November 26, 1886.

JUDGMENT OF MR. JUSTICE STEPHEN AND MR. JUSTICE SMITH.

Mr. Justice Stephen: I have attended carefully to the arguments which have been addressed to the Court in this case, and, if I may be allowed to say so, the case has been very well argued on both sides, but I think, on the whole, that the contention of Mr. Lawrence ought to prevail. The way in which I view it is this.

First of all, the contract between the parties is a contract according to which the men are to be paid so much, namely, 1*s.* 8*d.* a ton, for large steam coal, and then they are to get an allowance for keeping out dross and other impurities 2*d.* a ton, and then for cutting through and through coal (which means large and small) they are to get about 1*s.* 2½*d.* per ton. In that state of things we have not yet seen what the 17th section says. The 17th section says that the amount of wages shall be paid according to the weight of the mineral which shall be gotten by the miner, and such mineral shall be truly weighed accordingly. But what was the mineral gotten by them? Through and large coal. And that I agree with the learned counsel on both sides is to be paid, and must be paid, for under this Act by weight, and not by measure. Then comes a proviso, which is as follows: "Nothing shall pre- "clude the owner, agent, or manager of the mine from agreeing "with the persons employed in such mine that reduction shall be "made in respect," &c. &c. [reading the section down to the words "to be gotten"].

Therefore, it is within the power of the manager and the persons employed in the mine to agree that deductions shall be made in respect of stone or mineral other than mineral contracted to be gotten. Is there any difference between "minerals contracted to "be gotten" and the minerals to be gotten, which has been spoken of just before? I think there is none. I think that the insertion of the word "mine" before the word "mineral" makes the language a little more pointed when it is looked at, but I think that the "minerals contracted to be gotten" means the same as "minerals to be gotten." Now, in this agreement for deductions in respect of minerals other than minerals contracted to be gotten and sent out of the mine with the minerals contracted to be gotten, it is small coal. It seems to me that small coal is not included in the word "stone," but is included in the words "minerals "other than minerals contracted to be gotten," and that it is obvious, and a reasonable thing, that there should be deductions made in respect of it. Well, then, is the deduction made in respect of small coal? Obviously it is. What it says is this: "If you put "into your tram more than 6 cwt. of small coal, there is to be a "deduction from the price to be paid for the large coal," that is, that the coal which comes up with that 6 cwt. of small in it shall be deducted from the payment to be made.

Then, was there an agreement? With regard to that, Mr. Thomas, with perfect candour, has cleared up his argument towards the end of it in several respects. He says there certainly

was an agreement which would be sufficient in an ordinary case, but it is not sufficient under the statute in a case of this kind. The argument is quite clear, but I do not think it is quite correct. It seems to me that it is a question of fact for the county court judge, and that there was distinct evidence, and the county court judge found, that the men working this coal saw the notice and read the notice, and, after seeing the notice, went down the pit, and, notwithstanding, carried on their work. It is perfectly true that the man was, under the agreement, to go on for a certain time, which has been referred to. I think that the learned county court judge had a perfect right to infer a year after, and to infer it from the facts proved before him, that he did acquiesce in the reasonableness of the notice which was put up, and which he read before he went down the mine, and that such an agreement was actually made. If he had gone to the manager of the bank and had said, "Take notice that I do not mean to submit to this; I go "down the mine because I contract to do so, but I give you notice "that I shall not submit to have my wages cut down in this way" —if he had done that, he would not have agreed, and it seems to me, I do not profess to say it definitely, but then the remedy of the mine owner in that case would have been to give a month's notice to quit, or the man might have given a month's notice to the mine owner, on the other hand, to quit. Of course if he had done that there would have been no agreement, and he would have been entitled to be paid in full from the time he entered the mine.

I do not wish to say anything about the other point which was before the Court below. That point, although it was brought before the county court judge, is not before us. The result, therefore, of all this put together is, that the effect of what was done falls within the earlier part of the proviso in clause 17, and consequently that the county court judge was right, and that his decision ought to be affirmed.

Mr. Justice Smith: I am of the same opinion, and I have nothing to add.

NOTE.—The above judgment is disapproved by the Court of Appeal in the Netherseal case (see p. 291).

Hynd *v.* Spowart & Co.

This was a Scotch case, under the Coal Mines Regulation Act of 1872, s. 17, decided by Lord Maclaren on November 5, 1884.

A contract between miners and their employer was that the miners should be paid by the amount of "round coal" gotten by them, as weighed at the pit-head after passing the contents of their hutches over a scree, which separated dross from coal.

Held, that this contract was valid, and consistent with the Coal Mines Regulation Act, 1872, s. 17, which enacted that where wages were paid by the amount of mineral gotten by miners, they should be paid according to the weight of the mineral gotten, and that the same was to be duly weighed: provided always that deductions might be made for stone or materials other than mineral contracted to be gotten, or for improper filling of the hutches.

Held, further, that a machine known in the mining trade as "Billy Fairplay," and which separately weighed the "round "coal" and the "small coal and dross" separated by the scree, was a lawful weighing machine for ascertaining the weight of mineral gotten in respect of which wages were to be paid (22 Scot. Law Rep. 702).

This decision was disapproved by the Court of Appeal in the Netherseal case.

SECTION 13.—CHECK-WEIGHER.

In the case of Hopkinson *v.* Caunt, L. R. 14 Q. B. D. 592 (March 13, 1886), under section 18 of the Act of 1872, the plaintiff, a check-weigher, received a fortnight's notice to quit his employment from the men employed in the mine. Before the notice expired, the men held a fresh election, at which the plaintiff (with others) presented himself as a candidate, and was again appointed.

Held, that the true construction of section 18 was to limit the class of persons from whom the men might appoint a check-weigher to persons employed in the mine by the mine owner; that the plaintiff ceased to have any employment under the mine owner when he was first appointed check-weigher by the men; and therefore that his second appointment was invalid. (See note to section 13, p. 110, ante.)

In the case of Whitehead (appellant) *v.* Holdsworth (respondent), L. R. 4 Ex. D. 13, an appeal on a case stated by a county

court judge, the appellant, who was a miner in the respondents' coal mine, was appointed check-weigher by the other miners under the provisions of section 18 of the Coal Mines Regulation Act, 1872, and acted in that capacity, and was paid by the miners. Subsequently, the respondents dismissed all the miners and closed the mine. No notice was given to the appellant by the respondents, or by or on behalf of the miners. On the mine being re-opened a short time afterwards, the appellant claimed to be still check-weigher, and to be entitled to perform the duties of that office, and brought an action against the respondents for preventing his doing so.

Held, that the appellant had, on the dismissal of the miners, ceased to be check-weigher, and that the action could not be maintained.

PRENTICE *v.* HALL.

Queen's Bench Division, December 19, 1877.

JUDGMENT.

Mr. Justice Mellor: I am of opinion myself that we must consider the mode in which the check-weigher was appointed. The object of the Act was essentially to secure the owner of the mine, and that this man should do nothing to impede either by act or by words or by persuasions the working of the mine; and it would have been a very strange thing if the Legislature had imposed on the mine owners the presence of such a person, merely for the purpose of seeing that the tale was accurately taken between the workmen and the employer, and yet that the mine owner should not be protected when he was not necessarily there, he having taken advantage of the fact that he was there lawfully for the purpose of taking an account of the coal got. It does not confine the fact of his interfering to the mere time when he is there on his actual duty; then it means this, You, the check-weigher, have been put on this duty for the purpose of protecting the interests of the workmen. You, on the other hand, shall do nothing to the prejudice of the interests of the mine owner; but it does appear to me, although the actual work was stopped which it was immediately his duty to superintend and to see to, that he was not there in the sense of a trespasser coming from outside or from another colliery, or another place; but he was taking advantage of the opportunity which his presence there gave him

to enable him to see that Goodman was actually at work, and what was the nature and extent of the work going on, and not having any particular employment himself, not being found there taking an account in consequence of the holiday or whatever it was, still at the same time he does take advantage of the position in which he is placed in the mine to interfere with the workmen, and to endeavour to persuade Goodman, who was actually at work, to abstain from working, so as to prejudice and damage the interests of the employer. I think we should be giving too narrow a construction to the words of the section if we acceded to the argument addressed to us in a case like this. I think that this man was rightly convicted, and that it was in contravention of what was his duty, interfering and impeding the service of the working of the mine by endeavouring to prevent Goodman from continuing in the service of his employer.

Mr. Justice Lush: I am clearly of the same opinion. I think the meaning of the Act is plain. Here is a person placed in a position on behalf of the workmen of the mine, a position independent of the owner of the mine, endeavouring to get the men to abandon the work. If that man abuses his position there to the prejudice of the mine owner by suborning or intimidating or otherwise preventing them attending to their work, he is subject to the Act. The statute says: "If the owner desires the removal "of a check-weigher on the ground that such check-weigher has "impeded or interrupted the working of the mine, or interfered "with the weighing, or has otherwise misconducted himself, he "may complain to any court of summary jurisdiction." It appears to me here quite immaterial where he does these illegal acts, whether he uses the intimidation on the mine premises or off the mine premises. He takes advantage of his position to abuse it, so as to get the workmen off there, and so interrupting and impeding the working of the mine; it matters not whether on the premises or off. He endeavoured here to do it; he did not succeed, but he had done all he could. I do not think it is material at all whether it was off the premises or on the premises; it is an abuse of his office. That is what the statute says, and I therefore think the conviction in the case was right.

Mr. Mellor, Q.C.: Your lordship dismisses it with costs.

Mr. Justice Lush: Yes.

SUMMONS FOR DISMISSAL OF CHECK-WEIGHER.

NORTHWOOD COLLIERY COMPANY *v.* CHURCHILL.

Before the Potteries stipendiary (Mr. H. C. Greenwood), at Hanley, yesterday (January 30, 1888), John Churchill, a check-weighman, employed at the Hanley Colliery Company's Northwood Colliery, was summoned to shew cause why he should not be removed from his office, it being alleged that he had unlawfully interrupted the working of the mine by affixing on the colliery a certain notice calling a meeting of the driftmen employed at the colliery, in consequence of which the workmen absented themselves from their employment. Mr. Boddam (instructed by Messrs. Paddock) appeared to support the information; and Mr. Moody was for the defence.

In opening the case, Mr. Boddam said the proceedings were taken under sub-section 4, section 13, of the Coal Mines Regulation Act, 1887, which provides that if the owner, agent, or manager of a mine desires the removal of a check-weigher on the ground that he has impeded or interrupted the working of the mine, or interfered with the weighing, or with any of the workmen, or with the management of the mine, or has at the mine, to the detriment of the owner, agent, or manager, done anything beyond the specified duties of the check-weigher, he may complain to a Court of summary jurisdiction, who, if of opinion that the owner, agent, or manager shews sufficient *primâ facie* ground for the removal of the check-weigher, shall call upon the check-weigher to shew cause against his removal. The learned counsel said the defendant was the check-weigher appointed by the workmen at the Northwood Colliery, and he was also joint secretary of the workmen's club, and collected from the men their subscriptions to the Miners' Union, of which he was a sort of local agent. He seemed to have got the impression that by reason of his position he might interfere with the men, advise them what to do and what not to do, and deal with them and their affairs generally. On the 19th inst. he put up the following notice in the lamp-house at the colliery:—"Notice.—Thursday, January 19, 1888.—An "important meeting will be held to-day at 'loose it,' in the Buck-"nall Road, when addresses will be given by Mr. E. Edwards "(miners' agent). All driftmen are earnestly requested to attend. "—By order, J. CHURCHILL, M.W.M." From the defendant's position in connection with the union, he submitted, the workmen

would not dare to disobey him, and when the men whose duty it was to go down the pit in the afternoon shift went to the lamp-house and saw that notice, they gave back their lamps and attended the meeting, instead of going into the mine. The meeting was held in accordance with the notice, and addresses were delivered by Mr. Edwards and the defendant on a subject which had caused some friction amongst the men. Under the new Act loose powder was not allowed to be used in the mine, and this had caused a grievance, and the result of the discussion of the question at the meeting convened by the defendant was that the men refused to continue at their work. The pit was brought to a standstill, and though the men did subsequently return to their work a few at a time, the last of them only resumed work that morning. By his action, the learned counsel contended, the defendant had, to the detriment of the owners, interfered with the workmen, and impeded and interrupted the working of the mine, and upon those grounds he applied that he might be removed from his office of check-weigher.

Several witnesses were called in support of counsel's opening statement, including Mr. S. Lawton, manager of the colliery, who stated that forty men from the Holly Lane seam and about ten from the Bowling Alley seam absented themselves from work in consequence of the defendant's notice. There was some grumbling amongst the men about the use of powder being prohibited in the mine, but no action was taken by them until after the meeting convened by the defendant. In reply to Mr. Moody, he said he did not know that the defendant had been in the habit of putting up notices in the lamp-house, but it might be so. He objected once to a meeting of workmen being convened at a public-house, but had not objected to meetings on any other occasion.

For the defence, Mr. Moody said that the defendant had been in the habit of posting in the lamp-house notices convening meetings of the men, and they had never been objected to by the authorities, and he submitted that the posting of the notice in question was not necessarily detrimental to the owners of the colliery. [Mr. Boddam: It cost them £200. I don't know whether you call that detrimental or not.] Mr. Moody said the defendant had no desire to prevent the men from working, neither did he wish to injure the masters. In posting the notice he simply acted as the instrument or agent of the men, who were his employers. The question for the Court to consider was whether there were sufficient facts disclosed to justify the removal of the defendant,

in face of the fact that he had been allowed to convene these meetings for a long time previously.

The stipendiary said the question was whether the defendant had interfered with the workmen, impeded or interrupted the working of the mine, or done anything beyond the duties of a check-weigher, as specified in the third sub-section of section 13.

Mr. Moody: "To the detriment of the owner, agent, or "manager," and I submit that the posting of the notice is not necessarily to the detriment of the owner.

The defendant was then sworn, and stated that he had been the men's check-weigher at this colliery for two years. He had been in the habit of calling meetings of the workmen when they had any grievance to discuss, and there had never been any objection taken to his posting notices in the lamp-house. He issued the notice in question at the request of some of the men. He did not address the meeting except to explain why he had called the men together. [Mr. Greenwood: That was not part of his duty as check-weigher.] In reply to the stipendiary, the defendant said the men who should have gone down the pit at three o'clock were at the meeting. He supposed they remained out of the pit and went to the meeting in consequence of his notice.

The stipendiary said he was satisfied that the defendant had been attending to matters far beyond his duties as a check-weigher, and therefore, granting the application, he ordered the defendant to be removed from his office and to pay the costs, £3 8*s*. 0*d*.

Mr. Moody asked his worship to grant him a case, but the stipendiary said there was no point of law arising. It was simply a question of fact, and the Court found that the defendant had acted beyond his duties, and done that which was to the detriment of the owners.

At the same court, twenty-six miners employed at the Northwood Colliery were summoned for neglect of work, 19*s*. being claimed from each of the defendants as compensation.

Mr. C. J. Homer, managing director of the Hanley Colliery Company, said that it had always been his contention that coal could be got as easily and in a much better and cleanly state without the use of powder than with it, and this had been demonstrated in the Holly Lane seam, where coal had been got without blasting for eighteen months past. When the last Act was passed, he sought to dispense with the use of explosives in the Bowling Alley seam also, and out of eleven sets of workmen, nine sets were willing to work without powder. He attributed the difficulty which

had arisen entirely to the men in the two sets, and to the action of the check-weigher (Churchill), and, as the latter was now removed from office, he was willing to withdraw the summonses against the twenty-six workmen, upon the payment of the costs of the summonses, 1*s.* each.

Mr. Moody, on behalf of the defendants, agreed to this course, and the summonses were struck out.—*Birmingham Daily Post*, January 31, 1888.

SECTION 15.—WEIGHTS AND MEASURES.

In the case of The Great Western Railway Company *v.* Bailie, 34 L. J. M. C. 31 (November 28, 1864), under the Weights and Measures Act (5 & 6 Will. IV. c. 63, s. 28), the appellants, the Great Western Railway Company, kept a weighing machine which for a fortnight had been so out of repair that, when anything was weighed by it, the weight appeared to be 4 lb. more than was really the weight.

Held, that the appellants were liable to be convicted under the above-named Act, section 28, for having in their possession a weighing machine which, on examination, was found to be incorrect or otherwise unjust.

In the case of The London and North-Western Railway Company *v.* Richards, 2 B. & S. 326 (February 17, 1862), upon the conviction of a railway company under 5 & 6 Will. IV. c. 63, s. 28, for having in their possession a weighing machine which, upon examination thereof, duly made by the inspector of weights and measures, was found to be incorrect—

Held, that a machine which, from its construction, was liable to variation from atmospheric and other causes, and required to be adjusted before it was used, was not incorrect upon examination, within the meaning of the statute, if examined by the inspector before it had been adjusted.

SECTION 19.—DIVISION OF A MINE INTO PARTS.

Wales *v.* Thomas.

In this case, under the Coal Mines Regulation Act, 1872, it was *Held*, ... that the expression "part of the mine" did not mean the neighbourhood where the gunpowder would be used, but such a part of the mine as could be treated by the statute as a separate mine (L. R. 16 Q. B. D. 340).

SECTIONS 20 AND 21.—CERTIFICATED MANAGERS.

PLANT *v.* THE CHEADLE VALLEY COAL AND IRON COMPANY.

Queen's Bench Division, Wednesday, November 29, 1882.

(BEFORE LORD CHIEF JUSTICE COLERIDGE AND MR. JUSTICE STEPHEN.)

Mr. Green shewed cause against a rule that had been obtained calling upon the plaintiff to shew cause why the decision of the county court judge should not be set aside on the ground of misdirection. The action was for wrongful dismissal of the plaintiff, who was a certificated manager of the defendant company, which they justified on the ground that the plaintiff absented himself from the mine for a certain period during the Whitsun holidays, and that in so doing he had acted contrary to the statute, which imposed on him the duty of daily supervising the mine when the men were not working under ground. The county court judge gave judgment for the plaintiff.

Mr. Bosanquet and Mr. Jenkins appeared for the defendant company in support of the rule.

Lord Coleridge, in giving judgment, said the Act of Parliament involved was one passed in very stringent terms, after much opposition and a great deal of evidence had been taken, and it dealt with very large interests indeed in the country. The legislation was most stringent for the object of preserving human life, an object well worthy of any Legislature, and it would be wrong for a court of justice to lend itself to frittering away the provisions of the Act, which were plain in their language, and which had a most salutary object to enforce. Neglect of the ventilation of the mine, of the collection of fire-damp, and the inspection of the perfect order and full working power of the machinery must, in a very great many mines, involve that very great danger to prevent which this Act of Parliament was passed. If the manager was not there from day to day, how could he, by his supervision, protect the workmen in the mine? It was clear from the true construction of the Act that it was the duty of the manager to be in the mine day by day to supervise it, and when he undertook this most onerous duty—for onerous, in truth, it was—if he desired at any time to be away, then the Act required that he should provide some other certificated colliery manager to fill his place during the period of his absence. It was, as he had said, a most onerous duty, but it was one on which the preservation of human life—sometimes to the number of hundreds—depended.

He held, therefore, that when the county court judge found that a certificated manager was not bound to be in daily supervision when no men were working in a mine under ground, he did so in direct contravention of the Act, and that it amounted to an absolute misdirection to the jury. Because the men had suspended for a period of twenty-four or forty-eight hours the actual operation of winning coals, that was no ground for saying, in the sense intended by the Act, that the mine had ceased to be worked. It appeared to him that if the ruling of the county court judge in this instance could be upheld it would get rid of some of the most salutary provisions of this valuable Act. His judgment would have to be reversed.

Mr. Justice Stephen concurred, and judgment was entered for the defendant company.—*Colliery Guardian*, December 1, 1882.

Queen's Bench Division, Monday, December 11, 1882.

This case recently came before the Lord Chief Justice and Mr. Justice Stephen, in the shape of an appeal from the decision of a county court judge. Mr. Green said he was instructed now to apply for leave to appeal against the decision then given by those two learned judges. Their lordships would remember that the action arose through the certificated manager of the company not having attended at the colliery belonging to the company during the Whitsuntide holidays. It was made clear by the evidence that the mine was not being worked at the time, and the view taken by the plaintiff—Plant—was, that although a certificated manager, yet he was not bound to be down in the mine during the period that the men were not at work.

Mr. Justice Stephen: I certainly should not give you leave to appeal, Mr. Green, nor do I think the Lord Chief Justice would do so; while, as regards my brother Field, the effect of asking him to give leave to appeal would be to re-argue the whole case. You ought to have made the application to me, and not to my learned brother, who is not acquainted with the facts. Certainly I shall not give you leave to appeal, as my mind is perfectly made up in the matter.

Mr. Justice Field: From what I hear it was a very important case, and this application should have been made at the time of the hearing, and not afterwards.

Mr. Green: It is a case that has created much excitement since.

Mr. Justice Field: I do not like to hear you come here, Mr.

Green, and talk about excitement. You ought not to speak like that here.

Mr. Green: Well, my lord, I will say, then, that it is a case that has excited considerable interest.

Their lordships refused the application.—*Colliery Guardian, December* 15, 1882.

SECTION 35.—NOTICE OF ACCIDENTS IN MINES.

In the case of Underhill and another *v.* Longridge, 29 L. J. M. C. 65 (November 16, 1859), under 18 & 19 Vict. c. 108, s. 9, by which section the owner or agent of a mine, who, in case of loss of life to any person employed in such mine by reason of any accident, or in case of serious personal injury arising from explosion therein, did not send notice of such accident to the inspector of the district within twenty-four hours after such loss of life, was liable to a penalty. The appellants were owners of a coal mine in which serious personal injury arose from explosion. They did not give notice to the inspector, and under the above section were convicted for not doing so.

Held, that words had been omitted which were necessary to create the offence which the appellants were supposed to have committed, and that, as those words could only be supplied by the Legislature, the appellants were not liable to the penalty. The words referred to as being omitted were the words "or serious "personal injury" after the words "loss of life."

STOTT *v.* DICKINSON.

Divisional Appeal Court (Grove and Quain, JJ.), February 17, 1876.

Coal Mines Regulation Act, 1872 (35 & 36 Vict. c. 76), ss. 41 and 72—Abandoned mine—Owner—Conclusion of agreement—Contractor.

In 1860 appellant proposed, in writing, to take from the landlord certain coal mines for fourteen years from Michaelmas of that year, at a certain rent, a lease to be granted and accepted with provisions contained in a then existing lease of other mines. The landlord accepted this proposal in writing, but no lease was executed. One of the provisions mentioned was that when and

so soon as the pits, shafts, roads, &c., should be discontinued or become useless, the lessee would fill up or remove the same, unless the lessor should signify his wish that the same should be kept open or continued.

In 1871 the appellant discontinued working these mines.

In December 1875 he was convicted by justices under the Coal Mines Regulation Act, 1872, s. 41, upon a charge of not causing the tops of the shafts of these mines to be kept securely fenced for the prevention of accidents on November 29 previously.

Held, upon a case stated, that appellant was not at the date charged an owner of the shafts within the interpretation of that term in section 72.

Section 41 applies to a mine abandoned or discontinued at any time before or after the time of the Acts coming into operation. Conviction quashed.

This was a case stated by justices of Little Bolton, Lancashire, who had convicted.

Mr. Justice Quain: The appellant when he was charged came within neither of the words included in the interpretation of "owner." I do not think he ceased to be the occupier when he ceased to work the mine; but after Michaelmas 1874 he did not lease, occupy, or contract for the working of any part of the mine. I think the matter is free from doubt, and the conviction must be quashed.

EVANS *v.* LADY MOSTYN AND OTHERS.

Grove and Lindley, JJ., April 20, 1877.

Metalliferous Mines Regulation Act, 1872 (35 & 36 Vict. c. 77), ss. 13, 41—Liability to fence abandoned shafts—"Persons interested in the minerals."

Section 13 of the Metalliferous Mines Regulation Act, 1872 (35 & 36 Vict. c. 77), enacts that where a mine to which the Act applies is abandoned, or the working thereof is discontinued, the owner thereof and every other person interested in the minerals of the mine shall cause the top of the shaft to be securely fenced for the prevention of accidents: provided that, subject to any contract to the contrary, the owner of the mines shall, as between him and any other person interested in the minerals of the mine, be liable to carry into effect this section; and by the interpretation clause (section 41) "owner" means any person who is the immediate proprietor, or lessee, or occupier of any mine, and

does not include a person who merely receives a royalty, rent, or fine from a mine, or is merely the proprietor of a mine subject to any lease, grant, or licence for the working thereof, or is merely the owner of the soil, and not interested in the minerals of the mine.

The respondents, who were owners in fee of mines and minerals, demised a lead mine, part of the estate, for a term of years, subject to a rent or royalties, such royalties to be paid upon the place where the ore should have been gotten or weighed, and before it should be taken away; the lease also reserving to the respondents powers of distress and re-entry if the royalties should be in arrear.

The lessees ceased working the mine, and left, and allowed it to remain insufficiently fenced.

Held, that, although the lease was still in force and undetermined, the respondents were guilty of an offence under section 13, as "persons interested in the minerals of the mine."

Case stated by justices of Flintshire.

ARKWRIGHT *v.* EVANS.

Common Pleas Division (Lord Coleridge, C.J., and Lindley, J.), February 27, 1880.

Mines—Metalliferous Mines Regulation Act, 1872 (35 & 36 Vict. c. 77)—Fencing shaft of abandoned mine—Owner person interested in minerals.

The appellant was lessee of a lead mine, and of all the duties arising therefrom, under a lease from the Duchy of Lancaster, by which he had to pay to the Duchy, by way of rent, all he might annually receive in respect of the mine, with an additional yearly rent of five shillings.

The mine was demised to him subject to a custom by which all the subjects of the realm have a right to search there for veins of lead ore, upon paying certain duties, and the appellant had no pecuniary interest in the mine or in the minerals thereof.

Section 13 of the Metalliferous Mines Regulation Act, 1872, requires the owner of an abandoned mine to which the Act applies, and every other person interested in the minerals of the mine, to cause the top of the shaft to be fenced; and section 41 states that the term "owner" means any person "who is the immediate pro-"prietor, or lessee, or occupier of a mine, and does not include

"a person who merely receives a royalty, rent, or fine from a "mine, or is merely the proprietor of a mine subject to any lease, "grant, or licence for the working thereof, or is merely the owner "of the soil and not interested in the minerals of the mine."

Held, that the appellant was neither owner of the mine nor a person interested in its minerals within the meaning of section 13, and therefore, upon the mine being abandoned, he was not liable to cause the top of its shaft to be fenced as required by that section.

SECTION 42.—NOTICE BY INSPECTOR OF CAUSES OF DANGER, &c.

Regina v. *The Spon Lane Colliery Company, Limited* (*L. R.* 3 *Q. B. D.* 673).

In this case notice was given under the corresponding section of the Act of 1872 to the appellants, by the district inspector of mines, that an accumulation of water existed near to and in connection with their mining works, which was dangerous, and tended to the bodily injury of the workmen employed therein, and requiring them "forthwith to remedy the matter." This accumulation of water was in the pit shaft of the adjoining colliery, and the defendants had no power to interfere with the water in it; but it was shewn that, after the receipt of the notice, they did not remove the men at work in their own pit shaft and colliery. The appellants having been convicted under the Act for failing to comply with the above notice—

Held, by the majority of the Court (Cockburn, C.J., and Mellor, J.), that the conviction was wrong, for section 46 (of the Act of 1872) only enabled the inspector to give notice in cases where the danger specified in the notice was one which could actually be remedied by the occupier of the mine, and not in cases where the source of danger was beyond their control; and that the only remedy under such circumstances was that given by section 51.

By Lush, J. (dissenting), that the conviction was right, for section 51 did not affect the power of the inspector to give notice under section 46, and the appellants' inability to remove the danger was the only ground for an objection to be sent by them to the Secretary of State; and that, not having appeared and stated the grounds of their objection, they had failed to comply with the provisions of the section.

H.M. Secretary of State for the Home Department *v.* Herbert Fletcher.

Court of Appeal, January 17, 1887.

JUDGMENT.

Lord Esher, M.R.: In this case three points were taken, two of which are of considerable importance. The inspector of mines for the district having inspected the appellant's mine, came to the conclusion that the use of open lamps in the mine was a source of danger, and acting, as he stated, under the Coal Mines Regulation Act, 1872, he made a requisition on the mine owner to remedy that matter. The mine owner has a strong opinion that the use of open lamps is more safe under the particular circumstances of the case than the use of safety lamps. He therefore objected to comply with the notice, and the matter went before an umpire, who has given a decision agreeing with the inspector. He has made his award, and two objections are taken to it—first, that he had no jurisdiction in the matter; and, secondly, that if he had any jurisdiction, he has acted in excess of it. There was a third objection, that the umpire was not properly appointed, but that was abandoned. It is contended that the matter dealt with in the award is already provided for by the general rules in the Act and also by the special rules, and is therefore outside the provisions of section 46 of the Act, so that no arbitration could take place under that section. I think, however, that neither the general rules contained in the 6th and 7th sub-sections of section 51, nor the special rules to which we have been referred, are applicable to this case. The necessity for withdrawing workmen from a dangerous mine, and the regulations as to safety lamps, where they are used, are wide of the question in the present case, which is whether it is necessary for the safety of the workmen to stop the use of open lamps.

The opinion I have come to on the second point does not make the Act so preservative of the safety of the workmen as I could have wished, but that does not affect the construction I feel bound to put on the words of the statute. We have to follow the general rule of construction, and put on the words used their ordinary meaning, and see to what conclusion that leads. Now, going through the 46th section, we find, first of all, that the inspector has to see whether any mine or part of a mine, or any matter, thing, or practice in or connected with such mine, is dangerous or defective, so as in his opinion to threaten or tend to the bodily

injury of any person. Then he is to give a notice, and state, not merely that the mine or practice is dangerous, but the particulars in which he considers it is so, and to require the same to be remedied. Where does his duty stop? At requiring the matter to be remedied. He is not told to say what he thinks to be the remedy, nor to require that remedy to be carried out. When the complaint is brought to the notice of the owner, agent, or manager, if he objects, not to a remedy proposed, but to remedy the matter complained of, he is to send an objection in writing stating his grounds to a Secretary of State, and thereupon the matter shall be determined by arbitration. What is the matter to be determined by arbitration? The inspector has required a matter or practice to be remedied, the owner has stated his grounds for objecting to remedy the matter complained of, and the requisition of the inspector and the objection to it of the owner are the matter which is to be determined by arbitration—that is, the question is whether the requisition of the inspector is one to which the objections of the owner form a sufficient answer. That is all that is to be determined. There being no words which enable the inspector to name a remedy, the arbitrator has no question of a remedy before him. If the arbitrator finds that the objections of the mine owner are unfounded, the requisition of the inspector stands. If after that the mine owner does not remedy the matter complained of, he must take the consequences; but the arbitrator has nothing to do with the consequences of the mine owner's neglect, that is for another tribunal. Applying these principles, I think the award goes beyond what I have stated to be the power of the arbitrator. The award should have followed the requisition of the inspector, and pronounced that the matter —that is, the working the mines with open lamps—was dangerous or defective, so as to threaten or tend to the bodily injury of the persons employed in or about the said colliery. But the arbitrator has determined that the mines are to be worked with safety lamps—that is, he has determined what is the remedy which should be adopted, and directed that to be followed. He has substantially found that the complaint is well founded, though he has gone beyond his powers in other respects. I can see no reason, therefore, why the award should not go back to him, so that he may put it into form. When that is done, it will be for the mine owner to remedy the defect, for if he does not he will, if the opinion of the next tribunal is against him, be liable to penalties under the Act.

Bowen, L.J.: There are two points in this case to which I will

address myself—whether the arbitrator had jurisdiction, and whether the award is in proper form? As to the first question, it seems to me that none of the general or special rules apply to the matter which is in dispute in this case, which is therefore a proper matter for arbitration. As to the other point, there is no more familiar rule than that an arbitrator ought in his award to follow the submission, and only determine what is submitted to him. If he is to find out what should be done in the particular case, a direction to that effect would be found in the submission, if to say what is to be done generally, that also would be found in the submission. Applying this, the power given to the arbitrator is limited to determining the matter in difference which has arisen under the 46th section. The inspector must first of all have come to the conclusion that the mine, or part of a mine, or any matter, thing, or practice in or connected with the mine is dangerous, or defective so as in his opinion to threaten or tend to the bodily injury of any person; next he is to give notice in writing of his opinion, and is to state the particulars in which he considers the mine, part of a mine, matter, thing, or practice is dangerous or defective, and lastly he must require the same (that is the thing of which he is complaining) to be remedied. In the present case the matter required to be remedied is the working of the mine with open lamps, the mine owner sent in his objections, and thus the matter was ripe for arbitration. The umpire had to determine whether the matter complained of was dangerous, and whether the requisition for a remedy was proper—in other words, whether the matter was so dangerous as to require a remedy. The umpire ought to confine himself strictly to the authority given him, and that does not include any power to determine what is the right remedy or to order that it shall be adopted, His award is, therefore, in my opinion, wrong, in form, but as the arbitrator has in fact determined the matter submitted to him I do not think we ought to set aside the award, but it ought to be remitted. I do not mean to suggest that there can be any other remedy for the matter complained of than to leave it off. It is sufficient for the present purpose to say that the award is wrong in form, and must be sent back to the umpire.

Fry, L.J.: The two questions to be decided both arise under section 46. The first inquiry is whether the matter dealt with by the requisition and notice is provided for by any general or special rule. The requisition relates to the habitual use of open lamps, and this is declared dangerous. It seems to me clear that this is not a matter dealt with in the Act or in the special rules, and if

that is so it was within the jurisdiction of the inspector. The thing to be remedied is the practice which the inspector has found to be dangerous, and the Act deals with objections by the owner to remedy, not the danger, but the matter complained of. Whether the matter complained of ought to be remedied is therefore the question about which a dispute arises, and that is the dispute which the arbitrator has to determine, and he has not to deal with anything further. I think the award ought to follow the requisition, and to state that the danger exists, and ought to be remedied, because that is the subject-matter of the dispute, but it is beyond the competence of the arbitrator to direct what is to be done to remedy the danger. Inasmuch, however, as the true matter in dispute was whether the requisition of the inspector was right, and that has clearly been determined by the umpire, I think the award ought to go back to him to be dealt with.

Award remitted to arbitrator.

SECTION 49, GENERAL RULES.

In the case of Wales *v.* Thomas, L. R. 16 Q. B. D. 340, under the Act of 1872, it was held that the expression "reasonably "practicable" did not relate to the carrying on of the mine as a profitable concern, but to physical or engineering difficulties in the way of carrying out the rules.

SECTION 49, GENERAL RULE 1.—VENTILATION.

In the case of Brough (appellant) *v.* Homfray and others (respondents), L. R. 3 Q. B. 771, which was an appeal on a case stated by justices of Monmouthshire under the Mines Act of 1860, section 10, general rule 1, corresponding to the above rule, it was—

Held, that it was not sufficient compliance with this rule to cause ventilation to pass along the working places and travelling roads, but that so much of the mine must be kept so ventilated as to render the working places and travelling roads safe.

KNOWLES *v.* DICKINSON.

This was a case under the Mines Act of 1855 (18 & 19 Vict. c. 108). Section 4 enacted certain general rules to be observed

in all collieries by the agent and owner. Rule 1 provided as follows:—"An adequate amount of ventilation shall be con-"stantly produced at all collieries, so that the working places "shall, under ordinary circumstances, be in a fit state for work-"ing." Section 11 provided that if a colliery was worked, and any of the general rules were neglected by the agent or owner, he was to be liable to penalties. It was—

Held, that the colliery was "being worked," although actual work was temporarily suspended from Saturday afternoon till Monday morning, and that, in order to a due observance of the rule, the "adequate ventilation" ought to be kept up during those hours of suspended work.

Case stated by justices of Lancashire (Bury Petty Sessions), and decided by Cockburn, C.J., and Crompton and Blackburn, JJ., on April 21, 1860 (2 E. & E. 705, 29 L. J. M. C. 135).

GENERAL RULE 10.—EXAMINATION OF SAFETY LAMPS.

The case of Dickinson (appellant) *v.* Fletcher (respondent), L. R. 9 C. P. Cases 1, was an appeal on a case stated by justices under sections 10 (General Rules) and 22 (Penalties for Offences) of the Mines Regulation Act, 1860, corresponding to sections 49 and 50 of the present Act. In the first-named Act it was provided that certain General Rules should be observed in every coal mine by the owner and agent thereof, and among those rules was one providing that, whenever safety lamps were required to be used, they should be first examined and safely locked by a person or persons duly authorized for that purpose. The 22nd section of the Act imposed a penalty on the owner or agent if, through the default of such owner or agent, any of the General Rules the provisions of which ought to be observed by them were neglected or wilfully violated.

The owner of a mine appointed a competent person to examine and lock the safety lamps required for use in the mine, but such person delivered out certain safety lamps to miners for use in the mine unlocked.

Held, that in the absence of any personal default on the part of the owner he was not liable to a penalty in respect of the act of the person so employed by him.

GENERAL RULE 12.—EXPLOSIVES.

FOSTER *v.* DIPHWYS CASSON SLATE COMPANY.

In this case (January 20, 1887), under the Metalliferous Mines Regulation Act, 1872 (35 & 36 Vict. c. 77), s. 23, sub-s. 2, "gunpowder or other explosive or inflammable substance shall not "be taken into the mine except in a case or canister containing "not more than four pounds."

Held, that the word "case," as used in the section, must be taken to mean something solid and substantial in the nature of a canister, and that a bag of linen or calico was not such a "case" (L. R. 18 Q. B. D. 428).

GENERAL RULE 14.—SIGNALLING AND MANHOLES.

In the case of Wilson *v.* Wishaw Coal Company (June 21, 1883), in the Court of Session (Scotland), under section 51 of the Coal Mines Act of 1872, it was *held*, that the plaintiff, a miner, who had been knocked down by a train of hutches when making his way from his working face to the bottom of the shaft, could not recover damages for his injuries, inasmuch as he had wilfully incurred the risk. It was proved, however, in the case that some of the manholes were more than thirty yards apart.

GENERAL RULE 19.—FENCING ENTRANCES TO SHAFTS.

SINNERTON *v.* MERRY.

In this case before the Court of Session (Scotland), June 22, 1886, under section 51 of the Coal Mines Act of 1872, S., who said he was in search of work at a coal mine, came to a pithead which was cut off by a railway from any road to which the public had a right of access, and which pithead was sufficiently fenced in terms of the statute. He was drunk, and refused to go away. Those in charge of the pithead took him about 150 yards to the north of the pit, and set him on his way. During their absence, a man coming up the pit left open the southmost gate in the fence surrounding the pithead. S. wandered back, fell down the pit, and was killed.

Held, in an action for damages, at the instance of the father of

S., that the owners of the pit were not liable in damages, either under the statute or at common law, thus confirming the previous decision of the sheriff substitute (13 Sess. Cas. 4th ser. 1012).

GENERAL RULE 20.—SECURING OF SHAFTS.

Mellors *v.* Shaw and another.

this case (June 21, 1861) a stone had fallen from the side of the shaft of a mine on the head of the plaintiff, owing to the defective lining or casing of the shaft, whereby he was dangerously wounded. It was proved that S., one of the two defendants, was manager of the mine, and that it was worked under his personal superintendence, and that the plaintiff was not aware of the defective condition of the shaft.

Held, that both defendants were guilty of personal negligence, nd on motion to enter a nonsuit, it was *held* (Crompton and Blackburn, JJ.), that on this finding of the jury, S. was liable, and therefore the other defendant was liable also (1 B. & S. 437).

SECTION 50.—PENALTY FOR NON-COMPLIANCE WITH RULES.

Wynne *v.* Forrester.

In this case, under sections 51 and 52 of the Coal Mines Regulation Act, 1872, it was *held*, that the agent of a mine subject to that Act might be convicted for breach of the regulations prescribed by the sections named, although the mine was under the control of a duly certified manager (L. R. 5 C. P. D. 361).

The above-named sections correspond with sections 49, 50, and 51 of the Act of 1887.

Hall *v.* Hopwood.

In this case, under the Coal Mines Regulation Act, 1872, s. 51, the respondent was the certified manager of a colliery at a salary of £1 a week, having similar employment in the neighbourhood. This colliery was found by an inspector to have an inadequate amount of ventilation, under the first general rule of the section named, which would have required an outlay of £200 to properly

remedy. The respondent had advised the directors to undertake this outlay, but he might have improved the ventilation with the resources at his disposal.

The justices before whom the respondent was summoned for this breach of the General Rules dismissed the charge.

Held, upon a case stated, that, although not responsible for the omission of substantial alterations by his employer, the respondent could not be said to have proved that he had taken all reasonable means under the circumstances to prevent the non-compliance with this general rule (41 L. T. N. S. 797, 49 L. J. M. C. 17).

BAKER (APPELLANT) *v.* CARTER (RESPONDENT), L. R. 3 Ex. D. 132.

In this appeal, under the Act of 1872, section 51, an information had been preferred against the part owner of a coal mine for non-compliance with general rule 22 (rule 29 in the Act of 1887). The evidence was that the General Rules were put up in various parts of the mine, and that the defendant occasionally visited the mine, but resided at a distance, and took no part in the management, which was under the exclusive control of the certificated manager, who was also part owner. The defendant was not examined as a witness, as he might have been under section 63, sub-section 4, but it was admitted that he had not personally taken any means to enforce the rules. The justices found as a fact that the defendant had taken all reasonable means, by publishing and to the best of his power enforcing the rules as regulations for the working of the mine, to prevent such non-compliance, and dismissed the information.

Held, that there was evidence from which the justices might properly come to that conclusion.

SECTION 51.—SPECIAL RULES.

HOWELLS *v.* WYNNE.

In this case, under 23 & 24 Vict. c. 151, by a certain special rule for regulating the mine, the charter master was to be the responsible manager of the pit, and the banksman was to take care that the persons descending the pit should in no case exceed eight at a time. The banksman violated such rule by lowering more than eight persons into the pit at one time, and there was evi-

dence that the charter master was close to the pit and cognizant of the banksman (who was his servant) so lowering more than eight persons.

Held, that such charter master might be convicted of aiding and abetting the banksman to commit a violation of such rule (32 L. J. [N. S.] M. C. 241).

HIGHAM *v.* WRIGHT.

This was a case under the Coal Mines Regulation Act, 1872. By a special rule in force in the H. mine no person "employed "in or about the works" was to ascend the pit contrary to the direction of the hooker-on. In the H. mine the workmen had power to dismiss themselves at a moment's notice. The respondents were workmen employed in the H. mine, and, being dissatisfied with their working-place, discharged themselves.

They asked the hooker-on to allow them to ascend the pit, but he refused to do so until the ordinary time came for workmen to quit the mine. The respondents, however, ascended, contrary to his direction.

Held, that the respondents had been guilty of a breach of the special rule above mentioned (L. R. 2 C. P. D. 397, 46 L. J. M. C. 223).

BADDELEY *v.* EARL GRANVILLE.

In this case the plaintiff's husband had been employed in the defendant's coal mine. One of the rules established in the mine under section 52 of the Coal Mines Regulation Act, 1872, required a banksman to be constantly present while the men were going up or down the shaft, but it was the regular practice of the mine, as the plaintiff's husband well knew, not to have a banksman in attendance during the night. The plaintiff's husband was killed in coming out of the mine at night by an accident arising through the absence of a banksman. In an action under the Employers' Liability Act, 1880—

Held, that the defence arising from the maxim *Volenti non fit injuria* was not applicable in cases where the injury arose from the breach of a statutory duty on the part of the employer, and that the plaintiff was entitled to recover.

Thomas v. *Quartermaine*, 18 Q. B. D. 685, discussed.—(L. R. 19 Q. B. D. 423.)

THE TRUCK ACT, 1831.

GENERAL CONCLUSIONS

to the Report of ALEXANDER REDGRAVE, Esq., C.B., *H.M. Chief Inspector of Factories upon the Truck System in Scotland—January* 22, 1887.

I have made some suggestions which, if adopted, would relieve employers of much odium which attaches to the present system, and which would be really much appreciated by the workmen.

I refer to:—

The transfer of company's stores to a co-operative association.

Weekly pays.

Pay lines.

A careful arrangement of deductions for sharpening picks, &c., and on account of foreign material sent up in the hutches or tubs.

These are all matters for the consideration of employers, and which I earnestly commend to them.

In reviewing the provisions of the Truck Act, and the deductions which may be legally made from wages, I am of opinion that it needs early amendment.

The Act starts with an enactment apparently of universal application, and then proceeds to restrict the enactments to certain trades and occupations, leaving every occupation unenumerated, outside the Act altogether.

Notwithstanding its defects, the Act has been of almost inestimable benefit. It certainly dealt a death-blow to many of the iniquities which did exist, and although some lingered on, they also disappeared after the inquiry by the Commissioners appointed to report upon the operation of the Truck Act, whose report was published in 1871, and it is only in some isolated places that deductions have been made from wages beyond those authorized by the terms of the Act itself.

The first effect of the Act was to put an end to the openly compulsory dealing by the workpeople at the employer's store. The second effect was and is to secure the employer from the chances of bad debts for any of the matters named in the Act for which deductions may be made from wages. I do not quite appreciate the grounds upon which certain employers of men receiving wages should be secured against bad debts beyond other

employers to whom workmen may be indebted, and have special privileges attaching to them.

I therefore propose that sections 19, 20, 23, and 24 should be repealed, and that the initial enactment should be that all wages should be paid in the current coin of the realm in *all* occupations.

There are, however, some deductions which serve important purposes in the interest of the employers as well as the employed, and to which mutual advantages are attached. The maintenance of the men in health is a matter of importance both to the employer and to the men themselves, and I am of opinion that a deduction from the wages of the men for medical attendance and medicine is quite justifiable, provided the sums deducted be paid to a medical practitioner who has the confidence of the men.

For a like reason I think a deduction of a subscription to a friendly or benefit society essentially for the advantage of the men, in its compulsorily keeping up the subscriptions or premiums, and retaining to members their right, which might be imperilled by accidental or injudicious neglect of the payment of the subscriptions.

I also consider a deduction from wages for materials, tools, gunpowder, and dynamite, used in the processes carried on in works and mines, to be desirable, if not necessary. The employer has to take care that, as regards explosives, the quality and economical use of them, as well as the storage of them, should be under his control, and that he should be in a position to determine the quality of the tools, &c., used in the mine, colliery, or factory, as they have considerable influence upon the amount of good work turned out.

I think the deduction of interest or poundage upon advances against work actually done should be illegal.

I am of opinion that the definition in section 25 should be so amended as to apply to the industries in Orkney, Shetland, and Fair Isle, &c., and that in Scotland proceedings should be taken in the sheriff's court, and that the procurator-fiscal should be empowered, either upon the application of others or upon his own motion, to institute proceedings under the Act.

I have, &c.,

(Signed) ALEXDR. REDGRAVE,

H.M. Chief Inspector of Factories and Workshops.

The Right Hon. the Secretary of State for the Home Department, &c. &c.,

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